**Section 1.100 Waiver and Modification of State Board Rules and School Code Mandates**

a) As authorized in Section 2-3.25g of the School Code [105 ILCS 5], an eligible applicant, as defined in 2-3.25g(a), or *any Independent Authority established under Section 2-3.25f-5 of the School Code* may petition for:

1) Approval of waivers or modifications of State Board of Education rules and of modifications of School Code mandates, which may be requested to meet the *intent of the rule or mandate in a more effective, efficient, or economical manner or when necessary to stimulate innovation or to improve student performance* (Section 2-3.25g(b) of the School Code); or

2) Approval of waivers of School Code mandates, which *may be requested* *when necessary to stimulate innovation or to improve student performance or the intent of the mandate in a more effective, efficient, or economical manner* (Section 2-3.25g(b) of the School Code).

b) "The School Code" comprises only those statutes compiled at 105 ILCS 5.

1) Waivers or modifications from State Board rules or School Code mandates *pertaining to special education, teacher educator licensure, teacher tenure and seniority, or* implementing compliance with the federal Every Student Succeeds Act (20 U.S.C. 6301 et seq.) or the Every Student Succeeds Act State Plan are not permitted.

2) Waivers or modifications of mandates pertaining to the use of student performance data and performance categories for teacher and principal evaluations, as required under Article 24A of the School Code, are not permittedand *on September 1, 2014, any previously authorized waiver or modification from such requirements shall terminate* (Section 2‑3.25g(b) of the School Code).

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

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

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

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

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

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

f) Applications must be sent by certified mail, return receipt requested, and addressed as specified on the application form.

g) Applications must be postmarked no later than 15 calendar days following the local governing board's approval. (See Section 2-3.25g(d) of the School Code.) Applications addressed other than as specified on the application form shall not be processed.

h) Applications for the waiver or modification of State Board rules or for the modification of School Code mandates shall be deemed approved and effective 46 calendar days after the date of receipt by the State Board of Education unless disapproved in writing. Receipt by the State Board shall be determined by the date of receipt shown on the return receipt form, except in the case of an incomplete application.

1) An applicant submitting an incomplete application shall be contacted by staff of the State Board regarding the need for additional information and the date by which the information must be received in order to avoid the application's return as ineligible for consideration.

2) The 45-day response time referred to in this subsection (h) shall not commence until the applicant submits the additional material requested by the State Board.

3) Each application that has not been made complete by the date identified in accordance with subsection (h)(1) shall be ineligible for consideration and shall be returned to the applicant with an explanation as to the deficiencies.

i) *The State Board may disapprove a request* for the waiver or modification of State Board rules or for the modification of School Code mandates *if* the request:

1) *is not based upon sound educational practices;*

2) *endangers the health or safety of students or staff;*

3) *compromises equal opportunities for learning; or*

4) *does not address the intent of the rule or mandate in a more effective, efficient or economical manner or does not have improved student performance as a primary goal.* (Section 2-3.25g(d) of the School Code).

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

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

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

(Source: Amended at 48 Ill. Reg. 7716, effective May 9, 2024)