

**Powers and Duties of the School Board; Indemnification**

**2:20-E Exhibit - Waiver and Modification Request Resource Guide**

<b>Waiver or Modification</b>	<b>Explanation, Special Considerations, and Resources</b>
<p>Exemptions from Unfunded Mandates, <a href="#">105 ILCS 5/22-60</a>.</p>	<p><b>Explanation</b></p> <p>Applies to unfunded or under-funded: (1) mandates in the School Code enacted after 8-20-10, or (2) regulatory mandates promulgated by the Ill. State Board of Education (ISBE) and adopted by rule after 8-20-10, other than those promulgated with respect to <a href="#">105 ILCS 5/22-60</a> or statutes already enacted on or before 8-20-10.</p> <p>Allows the District to petition its Regional Superintendent or a Suburban Cook County Intermediate Service Center, whichever is appropriate, to request exemption from implementing the mandate in school(s) in the next school year.</p> <p><b>Special Considerations</b></p> <ol style="list-style-type: none"> <li>1. Whether the significance of the unfunded or under-funded mandate justifies the effort needed to seek an exemption, and</li> <li>2. The advisability of simultaneously seeking a waiver or modification using <a href="#">Section 2-3.25g</a> (see <i>Explanation</i> section in the row below).</li> </ol> <p><b>Resources</b></p> <p>ISBE Rules and Waivers division at:  <a href="http://www.isbe.net/Pages/Waivers.aspx">www.isbe.net/Pages/Waivers.aspx</a> U21T, (217) 782-5270, or <a href="mailto:waivers@isbe.net">waivers@isbe.net</a>.</p>
<p>School Code Mandates and ISBE Rules, <a href="#">105 ILCS 5/2-3.25g</a>, amended by P.A. 100-465; <a href="#">23 Ill.Admin.Code §1.100</a>.</p>	<p><b>Explanation</b></p> <p>There are two options for the District (explanations are listed below each option):</p> <p><b>Option 1: Petition ISBE</b> for a <i>waiver</i> of School Code mandates; ISBE forwards the petition for waiver to the Ill. General Assembly for consideration in its next-scheduled report.</p> <p><b>Option 2: Petition ISBE</b> for one or more of the following:</p> <ol style="list-style-type: none"> <li>1. A <i>modification</i> of the mandates in the School Code (this is different than asking for a <i>waiver</i> of mandates in the School Code).</li> <li>2. A <i>waiver</i> of ISBE administrative rules.</li> <li>3. A <i>modification</i> of ISBE administrative rules.</li> </ol> <p>For <b>Option 1</b>, a <i>waiver of mandates in the School Code</i>, the District must demonstrate that the waiver is necessary to: (a) stimulate innovation; (b) improve student performance; or (c) it can address the intent of the mandate in a more effective, efficient, or economical manner. <a href="#">105 ILCS 5/2-3.25g</a>, amended by P.A. 100-465, and <a href="#">23 Ill.Admin.Code §1.100</a>, list and describe</p>

mandates from which school districts may not seek a *waiver* or *modification*.

For **Option 2**, a *modification of the mandates in the School Code* and/or a *waiver or modification of administrative rules*, the District must demonstrate that: (1) it can address the intent of the rule or mandate in a more effective, efficient, or economical manner; or (2) the waiver or modification is necessary to stimulate innovation or improve student performance.

The District must also provide certain notices as follows:

1. Publish a notice in a newspaper of general circulation within the District of the time, date, place, and general subject matter of a public hearing on the proposed waiver or modification request. This notice must be published at least seven days before the hearing.
2. If there is no newspaper published in the county, give notice in a secular newspaper published in an adjoining county having general circulation within the District. [715 ILCS 5/2](#), amended by P.A. 100-72, and [715 ILCS 5/5](#).
3. Post the time, date, place, and general subject matter of the public hearing on the District's website at least 14 days before the hearing.
4. Notify, electronically or in writing, the affected exclusive bargaining agent(s) and the District's State legislators of the District's intent to seek approval of a waiver or modification and of the hearing to be held to take testimony from staff. This notice must occur at least seven days before the hearing, and the affected exclusive bargaining agent(s) shall be allowed to attend the public hearing. [105 ILCS 5/2-3.25g\(c-5\)](#), amended by P.A. 100-782.

Check the ISBE website listed below in the *Special Considerations* section for changes in notice requirements.

### **Special Considerations**

The District must develop a plan supporting a waiver or modification request that meets the criteria in [105 ILCS 5/2-3.25g](#). See [www.isbe.net/Pages/Overview-of-the-Waiver-Process.aspx](http://www.isbe.net/Pages/Overview-of-the-Waiver-Process.aspx). [105 ILCS 5/2-3.25g](#); [23 Ill.Admin.Code §1.100](#).

### **Resources**

ISBE rules at:

[23 Ill.Admin.Code §1.100](#) (*Waiver and Modification of State Board Rules and School Code Mandates*)

[23 Ill.Admin.Code §1.110](#) (*Appeal Process Under Section 22-60 of the School Code*)

ISBE waivers at: [www.isbe.net/Pages/Waivers.aspx](http://www.isbe.net/Pages/Waivers.aspx)

Waiver overview at: [www.isbe.net/Pages/Overview-of-the-Waiver-Process.aspx](http://www.isbe.net/Pages/Overview-of-the-Waiver-Process.aspx)

	<p>Instructions at: <a href="http://www.isbe.net/Pages/Waiver-Application.aspx">www.isbe.net/Pages/Waiver-Application.aspx</a></p> <p>Application form at: <a href="http://www.isbe.net/documents/33-77_waiver_application.pdf">www.isbe.net/documents/33-77_waiver_application.pdf</a></p>
<p>Physical Education, <a href="#">105 ILCS 5/27-6</a>, amended by P.A. 100-465.</p> <p>Driver Education, <a href="#">105 ILCS 5/24.2</a> and <a href="#">105 ILCS 5/2-3.25g</a>, amended by P.A. 100-465.</p>	<p><b>Explanation</b></p> <p>See the <i>Explanation</i> section in the row above.</p> <p><b>Special Considerations</b></p> <p>In addition to the <i>Explanation</i> section above:</p> <ol style="list-style-type: none"> <li>1. <b>Physical education</b> is managed as a <i>waiver</i> of School Code mandates discussed in the <i>Explanation</i> section above. A waiver of this School Code mandate may be in effect for up to five years. Recent legislative changes removed any cap applicable to renewal of waivers related to physical education.</li> <li>2. <b>Driver education fee increases</b> require the District to include the proposed amount of the fee increase: (a) in the public notice; and (b) on the District’s website. <a href="#">105 ILCS 5/2-3.25g(c-5)</a>. <b>Note:</b> For a sample school district resolution to increase driver education fees, see 4:140-E3, <i>Resolution to Increase Driver Education Fees</i>.</li> </ol> <p><b>Resources</b></p> <p>See the <i>Resources</i> section in the row above.</p>
<p>Holidays, <a href="#">105 ILCS 5/24-2(b)</a>.</p>	<p><b>Explanation</b></p> <p>Allows the District to hold school or schedule teachers’ institutes, parent-teacher conferences, or staff development on certain holidays without submitting a modification request to and obtaining approval from ISBE.</p> <p>After a public hearing, the District may hold school or schedule teachers’ institutes, parent-teacher conferences, or staff development on:</p> <ol style="list-style-type: none"> <li>1. The third Monday in January (Dr. Martin Luther King, Jr.’s Birthday);</li> <li>2. February 12 (President Abraham Lincoln’s Birthday);</li> <li>3. The first Monday in March (Casimir Pulaski Day);</li> <li>4. The second Monday in October (Columbus Day); and/or</li> <li>5. November 11 (Veterans Day).</li> </ol> <p><b>Special Considerations</b></p> <p>The Board must provide notice before the public hearing to both educators and parents/guardians with: (1) the time, date, and place of the hearing; (2) a description of the proposal; and (3) information that testimony from educators and parents/guardians will be taken about the proposal during the hearing.</p> <p>The District must prepare a proposal for recognizing the person(s) honored by the holiday through instructional activities conducted on that day or, if the day is not used for student attendance, on the first school day preceding or following that day. The District may also consider aligning the proposal with Board</p>

policies 5:200, *Terms and Conditions of Employment and Dismissal*; 5:330, *Sick Days, Vacation, Holidays, and Leaves*; and 6:20, *School Year Calendar and Day*.

### Resources

See the tab labeled *Waivers and modifications no longer needed for legal school holiday requests, most parent-teacher conference schedules* on ISBE's website at: [www.isbe.net/Pages/Modifications-of-the-School-Codes-and-Rules-of-the-State-Board.aspx](http://www.isbe.net/Pages/Modifications-of-the-School-Codes-and-Rules-of-the-State-Board.aspx).

Parent-Teacher Conferences (Attendance Calculation), [105 ILCS 5/10-19.05\(d\)](#), added by P.A. 101-12.

The District is allowed to count a parent-teacher conference as a full day of attendance under any of the following configurations:

1. A minimum of five clock-hours of parent-teacher conferences;
2. Both a minimum of two clock-hours of parent-teacher conferences held in the evening following a full day of student attendance, and a minimum of three clock-hours of parent-teacher conferences held on the day immediately following evening parent-teacher conferences; or
3. Multiple parent-teacher conferences held in the evenings following full days of student attendance, in which the time used for the parent-teacher conferences is equivalent to a minimum of five clock-hours.

### Special Considerations

Any other options for counting a parent-teacher conference as a full day of attendance not covered by the language above will require a waiver request to the General Assembly for its consideration.

The above clock-hour requirements do not apply if the Governor declares a disaster due to a public health emergency pursuant to [20 ILCS 3305/7](#) and the State Superintendent of Education may establish minimum clock-hour requirements under [105 ILCS 5/10-30](#). [105 ILCS 5/10-19.05\(j-5\)](#), added by P.A. 101-643.

### Resources

See the tab labeled *Waivers and modifications no longer needed for legal school holiday requests, most parent-teacher conference schedules* on ISBE's website at: [www.isbe.net/Pages/Modifications-of-the-School-Codes-and-Rules-of-the-State-Board.aspx](http://www.isbe.net/Pages/Modifications-of-the-School-Codes-and-Rules-of-the-State-Board.aspx).

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**Harlem School District 122**