

156.161 Waiver of administrative regulations and statutes by Kentucky Board of Education -- Request by local board of education -- Limitations -- Assistance by Department of Education -- Procedures -- Schools of innovation -- School district not penalized -- Administrative regulation.

- (1) Except as provided in KRS 156.1611 or otherwise provided in statute, the Kentucky Board of Education, upon the request of the local board of education of a school district, may grant a waiver from the requirements of an administrative regulation promulgated by the state board or from a statute over which the state board has authority to enforce. The state board may also grant a waiver from the requirements of an administrative regulation promulgated by the Education Professional Standards Board or from a statute over which the Education Professional Standards Board has authority to enforce, after consultation with the Education Professional Standards Board. A waiver granted by the state board shall expire on June 30 of the third full school year after the request was first approved, regardless of subsequent amendment, unless the state board renews the waiver prior to expiration. However, a waiver related to specific school district facility projects that may include the construction or renovation of school buildings or the acquisition or disposition of property shall not expire unless the state board specifically provides for expiration when granting the waiver. The state board shall not approve any waiver request to overturn a certification determination of a specific individual by the Education Professional Standards Board. The state board shall not waive any statute or administrative regulation:
 - (a) Relating to health and safety, including required criminal background checks for staff and volunteers specified in KRS 160.380 and 161.148;
 - (b) Relating to civil rights;
 - (c) Required by federal law;
 - (d) Relating to compulsory attendance requirements under KRS 158.030 and 158.100, or the recording of data necessary for participation in the fund to support education excellence in Kentucky;
 - (e) Establishing certification requirements for teachers, except a waiver may authorize up to twenty-five percent (25%) of the teaching staff of a school may be employed without teacher certification if the individual possesses a:
 1. Baccalaureate or graduate degree in the subject the individual is hired to teach; or
 2. Recognized industry credential in the technical education area the individual is hired to teach;
 - (f) Requiring students' participation in state assessment of student performance as required under KRS 158.6453;
 - (g) Financial audits, audit procedures, and audit requirements under KRS 156.265;
 - (h) Open records and open meeting requirements under KRS Chapter 61;
 - (i) Purchasing requirements and limitations under KRS Chapter 45A and KRS 156.074 and 156.480; or

- (j) Requiring instructional time that is at least equivalent to the student instructional year specified in KRS 158.070.
- (2) A waiver request under subsection (1) of this section shall:
 - (a) Identify the specific statutes and administrative regulations for which the local board is seeking a waiver;
 - (b) Specify the schools or programs within the district to which the waiver shall apply;
 - (c) Explain how the waiver for the schools or programs of each specific statute or administrative regulation will improve operations or student academic achievement; and
 - (d) Include any evidence the district wishes to submit to support the request.
 - (3) A local board may request the Kentucky Department of Education to assist in the development of a waiver request. To receive assistance, a local board shall provide the department with a list of innovative practices the local board intends to submit in a waiver request. The department shall provide a timely analysis of the list to the local board that identifies which statutes and administrative regulations under the authority of the state board or the Education Professional Standards Board, if any, would need to be waived to allow the innovative practice.
 - (4) The department may provide the state board an analysis of a waiver request to assist the state board with consideration of the waiver request. However, if the waiver request was previously analyzed by the department while assisting under subsection (3) of this section and has not been modified, then the analysis for the state board shall be consistent with the completed analysis for the local board. The department and the commissioner shall not recommend approval or denial to the state board, but may provide the benefits and disadvantages of approving the waiver request.
 - (5) Upon the majority vote of a local board approving a waiver request, the superintendent of the district or the local board's designee shall submit the waiver request to the state board. The state board shall consider the waiver of each statute or administrative regulation included in the request at a meeting occurring no later than thirty (30) calendar days after submission and shall either approve or deny the request. In considering approval for each statute or administrative regulation identified in a waiver request, the state board shall grant the request if, when considered in conjunction with the findings and declarations of KRS 156.1613, the waiver request reasonably demonstrates that approval is more likely than not:
 - (a) To improve that school's or program's operation without hindering student academic achievement; or
 - (b) To improve student academic achievement at that school or program.
 - (6) In submitting a waiver request for consideration under subsection (5) of this section, a local board may seek to identify the school or program that is the subject of the request as a school of innovation for the purposes of providing innovative educational opportunities to students. An application for identification as a school of innovation may also incorporate any waivers previously approved and in effect under this section or KRS 156.1611. The state board shall approve the request to be identified as a school of innovation if the request demonstrates that all the approved

waivers under this section and KRS 156.1611 attempt to improve student outcomes in a manner that would be difficult or impossible without the approved waivers. Notwithstanding any previous expiration date, the waivers incorporated in the identification as a school of innovation shall expire on June 30 of the third full school year after the identification is made.

- (7) A local board whose request to waive a statute or administrative regulation under subsection (5) or (6) of this section was denied may amend the original request for reconsideration at the state board's next regularly scheduled meeting.
- (8) A local board may seek to amend a previously approved waiver request by submitting the amendment for approval by the state board under the same procedures as the original request.
- (9) A local board that is granted a waiver under subsection (5) or (6) of this section may submit a request to renew the waiver to the state board. A renewal request shall be submitted no earlier than six (6) months prior to that waiver's expiration. The renewal request shall include evidence of the operational improvement of the school or program that is subject to the waiver, the academic achievement of the students enrolled in the schools or program, comparisons of those students with similar students across the state, and any other evidence of the waiver's benefit to student academic achievement. If the state board finds that the waiver has had a positive impact on the school's or program's operation or the academic achievement of students, then the renewal request shall be approved. An approved renewal request shall extend the waiver for an additional three (3) school years. However, a waiver related to school district facility projects, as identified in subsection (1) of this section, shall not expire unless the state board specifically provides for expiration when granting the waiver.
- (10) Any school that is subject to a waiver shall admit any and all children eligible to attend the school subject to the local board's policies.
- (11) If the state board at any time finds by a two-thirds (2/3) majority vote that a specific waiver previously granted has hindered school or program operations, endangered students, impeded student academic achievement, or supported financial malfeasance or criminal activity, then the waiver shall be rescinded. The existence of a waiver shall not negate the legal duties or professional responsibilities of a district employee.
- (12) The Kentucky Board of Education, the commissioner of education, and the Kentucky Department of Education shall not penalize a school district for an action that violates a statute or administrative regulation if:
 - (a) The action was described in a request for assistance under subsection (3) of this section; and
 - (b) The analysis of the request for assistance submitted to the district by the department:
 - 1. Indicated that the action would not violate any statute or administrative regulation in existence at the time of the analysis; or
 - 2. Did not include the statute or administrative regulation in existence at the time of the analysis and the exact request for assistance was

approved as a waiver request by the Kentucky Board of Education.

- (13) The state board shall promulgate administrative regulations in accordance with KRS Chapter 13A to adopt a standardized waiver request form and establish any procedures for processing waiver requests in compliance with this section.

Effective: July 15, 2026

History: Amended 2026 Ky. Acts ch. 180, sec. 2, effective July 15, 2026; and ch. 196, sec. 15, effective July 15, 2026. -- Created 2025 Ky. Acts ch. 113, sec. 1, effective June 27, 2025.

Legislative Research Commission Note (7/15/2026). This statute was amended by 2026 Ky. Acts chs. 180 and 196. Where these Acts are not in conflict, they have been codified together. Where a conflict exists, Acts ch. 196, which was last enacted by the General Assembly, prevails under KRS 446.250.

Legislative Research Commission Note (6/27/2025). 2025 Ky. Acts ch. 113, sec. 31, provides that Sections 1 to 10 of the Act, which created this section and amended KRS 156.160, 156.445, 157.360, 158.070, 158.080, 158.854, 160.151, 160.380, and 164.769, may be cited as the School Innovation Act.