

156.161 Waiver of administrative regulations and statutes by Kentucky Board of Education -- Request by local board of education -- Limitations -- Procedures - - Schools of innovation.

- (1) 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. 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. 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 in core academic areas, 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 baccalaureate or graduate degree in the subject 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) Upon the majority vote of a local board approving a waiver request, the superintendent of the district 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 the next regularly scheduled meeting 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 it demonstrates that the waiver 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.
- (4) In submitting a waiver request under subsection (3) 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. In addition to any other waivers granted for the school or program, a school of innovation shall be granted a waiver from all statutes and administrative regulations that would prevent the district from entering into an agreement with an education service provider to assist in the management and operation of the school or program. The state board shall approve the school of innovation request if the request demonstrates that identification as a school of innovation is more likely than not to improve either that school's or program's operation or student academic achievement.
 - (5) A local board whose request to waive a statute or administrative regulation under subsection (3) or (4) of this section was denied may amend the original request for reconsideration at the state board's next regularly scheduled meeting. A local board may request assistance from the Kentucky Department of Education in the development of the local board's waiver request or an amendment.
 - (6) 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.
 - (7) A local board that is granted a waiver under subsection (3) or (4) 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.
 - (8) 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.
 - (9) 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.
 - (10) 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: June 27, 2025

History: Created 2025 Ky. Acts ch. 113, sec. 1, effective June 27, 2025.

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.