

STATE MANDATE WAIVERS

Development/Evaluation of Concepts

Prior to submitting waiver applications for final review by the solicitor and formal Joint Operating Committee approval, the administration's evaluation and development of waiver ideas and suggestions should include:

1. Preliminary review to identify ideas suitable for further investment of staff time or consultation expense.
2. Initial assessment of potential to produce benefit and meet Act 16 criteria.
3. Input and recommendations, as appropriate, from supervisors or staff most directly affected.
4. Identification of all Joint Operating Committee policies, procedures and practices implementing or reflecting the present legal requirement to be waived, or which should be amended in order to properly implement or evaluate the benefit of the waiver, or the operation of which otherwise would be affected by the waiver.
5. Identification of all collective bargaining provisions, past practices, vendor and service contracts, court orders, and other legal obligations of the school that may be affected by the waiver or that might have to be renegotiated in order to implement the waiver.
6. Review of similar waiver applications submitted by other vocational technical schools or school districts, information available from PSBA, or consultation with other school entities developing similar ideas.
7. Determination of whether the nature of the waiver is such that it should be filed jointly with another vocational technical school or school district.
8. Determination of whether the subject of the waiver is such that the issue may need to be collectively bargained or is subject to meet and discuss procedures.
9. Summarization of alternative means by which the benefit of the waiver could be measured and documented, in addition to those described in draft language for the actual waiver application.
10. Identification and gathering of data or documentation demonstrating how greater efficiency, program improvements or cost savings will result from the waiver, including estimates of cost savings.

11. Estimate of cost or budget requirements for implementation, including cost of measuring, documenting or reporting upon the success of the waiver after the three-year trial period.
12. Proposal of an anticipated implementation date, along with a tentative timetable for further steps necessary to submit the waiver to PDE and properly implement the waiver.
13. Determination of whether the subject of the waiver is such that it should be reviewed and discussed with administrators and staff other than those directly developing the idea, or by an appropriate committee of the Joint Operating Committee prior to finalization of the application or presentation to the Joint Operating Committee for approval.
14. Determination of whether the concept involves matters of federal law subject to waiver under Ed-Flex or similar waiver programs, such that a federal waiver should be sought in conjunction with an Act 16 waiver.

Review Procedures

Initial review of potentially meritorious waivers by the solicitor should occur early enough in the evaluation and development process to ensure the effective use of staff time or other expense in further development, to ensure that subject area is not ineligible for waiver, and to identify other potential legal obstacles or implementation issues.

Waiver applications may be submitted to the appropriate Joint Operating Committee committee(s) prior to final review by the solicitor. If the committee recommends proceeding further with the waiver application, the application shall be referred to the solicitor for final review, prior to submission to the full Joint Operating Committee for approval at a regular, public Joint Operating Committee meeting.

The solicitor's required final review of waiver application shall address, in addition to whether it can be implemented without violating other state or federal laws or court orders binding on the school, a review of associated policy amendments as well as provisions of collective bargaining or other contracts that may be affected by the waiver or that should be amended in order to implement the waiver properly.

Related Policy Amendments

If amendments to adopted policies or existing administrative procedures appear to be necessary or appropriate in order to implement the waiver effectively, the final recommendation by the administration to the Joint Operating Committee and the final solicitor's review shall include specific language for proposed policy amendments.

A first reading of such amendments, in accordance with Joint Operating Committee Procedures 003, Functions, may occur at the time the full Joint Operating Committee approves the waiver application for submission to PDE. All such proposed amendments shall be contingent upon approval of the waiver application by PDE, and upon formal action of the Joint Operating Committee, acknowledging PDE waiver approval and establishing the actual implementation date.

Subsequent readings of related policy changes, if required, should occur sufficiently in advance of the anticipated implementation date to enable implementation to occur as scheduled.

Modified/Revised Applications

In the event PDE requests modifications to a submitted evaluation, the administration shall immediately notify and recommend to the Joint Operating Committee a course of action to ensure that approval of a modified application, if deemed appropriate, can be accomplished as soon as possible at a regular meeting of the Joint Operating Committee.

The administration shall promptly notify the Joint Operating Committee if a waiver application is denied, and shall prepare recommendations as to whether a revised application should be submitted and what revisions are necessary.

Effective Date of Implementation/Rescission

Notwithstanding the anticipated implementation date contained in a waiver application, no waiver shall go into effect until the Joint Operating Committee has taken formal action, acknowledging approval by the Secretary of Education and directing immediate implementation or specifying a future implementation date. The specified implementation date also shall be the effective date of the waiver. All waiver applications shall note the distinction required between anticipated and actual implementation dates.

Implementation/Evaluation/Renewal of Waivers

Upon notification of approval of a waiver by the Secretary of Education, the administration immediately shall notify the Joint Operating Committee and begin coordinating preliminary actions necessary to implement the waiver not already accomplished, including where applicable:

1. Meet-and-discuss or bargaining.
2. Notification to vendor and service contractors or requests to review contract terms.
3. Subsequent readings of proposed policy changes.
4. Ensuring that an appropriate system or method is in place to begin evaluating the waiver benefits.
5. Ensuring that personnel have been trained and instructed on any new or modified responsibilities arising from the waiver or its evaluations.

The administration shall advise the Joint Operating Committee of a projected timetable for accomplishing implementation and a projected date for action by the Joint Operating Committee, placing the waiver into effect.

The administration shall ensure that budget recommendations have taken into account the costs of implementing the waiver, including costs of tracking and documenting the effectiveness of the waiver, as well as any cost savings that can be reliably projected to result from the waiver.

The administration shall ensure that the required measurement method is implemented and appropriate data are collected and maintained, and shall ensure that a request for renewal documenting the actual success of a waiver is prepared for timely submission prior to the expiration of the three-year trial period.

Notice/Records of Waiver Applications/Approved Waivers

The administration shall provide written notification of each waiver application submitted to PDE for approval to each local unit of a collective bargaining organization representing school employees.

Vendor/Service/Construction/Other Contracts

Except where clearly neither pertinent nor appropriate, all vendor, service, construction or other contracts and agreements shall contain language acknowledging that:

1. Laws, regulations or standards otherwise affecting their relationships with the school may have been altered by virtue of waivers under Act 16.
2. The parties have familiarized themselves with waivers in force, as listed in Joint Operating Committee records, prior to entering into the contract.
3. The agreement or contract is subject to any waivers currently in force as of the time the contract was entered into.

Unless agreed to by the parties to a contract, waivers normally will not be applied to affect obligations or rights under contractual agreements made prior to the time the waiver goes into effect. The administration and solicitor, as appropriate, shall consider and advise the Joint Operating Committee about whether proposed contracts should contain the following:

1. Language referring and agreeing to the effect of pertinent specific waivers that have been applied for or are under consideration, but which are not yet in force, so that eventual implementation would not require reopening and amending of a recently-concluded contract.
2. A convenient mechanism for incorporating or obtaining agreement to the effect of future waivers, without need to reopen entire contracts.