



**STATE OF HAWAII**  
**DEPARTMENT OF EDUCATION**  
P.O. BOX 2360  
HONOLULU, HAWAII 96804

OFFICE OF THE SUPERINTENDENT

July 30, 2020

TO: The Honorable Catherine Payne  
Chairperson, Board of Education

FROM: Dr. Christina M. Kishimoto  
Superintendent

A blue ink signature of Dr. Christina M. Kishimoto.

SUBJECT: **Board Action on General Waiver to Allow Reduction of the 180 Day School Year and 1,080 Student Instructional Hours Pursuant to Hawaii Revised Statutes Section 302A-251, Consistent with Revisions to the Department of Education's 2020-2021 School Calendar**

1. BACKGROUND

The current Coronavirus Disease 2019 (COVID-19) global pandemic has thrust unprecedented hardships upon the people of our state. As of July 27, 2020, there have been 1,711 confirmed cases of COVID-19 and 26 related deaths from the disease. The Hawaii State Department of Education (Department) is simultaneously formulating its plans for the reopening of school campuses statewide; the 2020-2021 school year is currently scheduled to commence on August 4, 2020. Ensuring the health and safety of our students and staff remains the highest priority and as such, the Department is incorporating additional training and professional development prior to students reporting to school and in preparation for the potential sudden school closures that result from the outbreak of COVID-19 infections.

The recently-approved Board Policy 500-20 School Community Council Waivers allows the Hawaii State Board of Education (Board) to grant the Department "general waivers from specific administrative rules, policies, or procedures under its jurisdiction or specific statutory provisions, as allowed by law, to apply to all schools under the same circumstances." The Department is requesting a general waiver from the 180-day school year and 1080 student hours requirements of HRS §302A-251. This waiver will allow the Department the necessary flexibility to adjust the school calendar for the 2020-2021 school year to allow for additional training and professional development on the delivery of instruction through blended and distance learning and on health and safety protocols and procedures. This flexibility will also allow the Department to maintain health and safety safeguards should it become necessary in the case of an outbreak at a school campus.

The Department does not intend to circumvent its responsibility to prepare all students for their future; however, it is imperative to obtain the requisite approvals to implement necessary adjustments to address the impact of the COVID-19 pandemic on our public education system. The Department remains committed to supporting all of our students, maintaining the Board's student achievement standards, and securing the health and safety of Department students, leaders, teachers, and staff.

2. RECOMMENDATION

The Board grants a general waiver for the Department to waive the school days and student hours requirements of HRS §302A-251 for the 2020-2021 school year to allow the Department the ability to implement the proposed revisions to the 2020-2021 Official School Calendar which are necessary to address the impact of the COVID-19 pandemic. The proposed revisions currently result in a school year of 171 student instructional days, a reduction of nine (9) student instructional days and 54 student hours. The nine (9) days will be used for training and professional development for school staff in preparation for the reopening of schools. The unions have agreed to further negotiate restoring three (3) student instructional days within the school calendar, which may result in a school calendar of 174 days.

The ever-changing nature of the current public health emergency dictates the need for flexibility to ensure schools continue to provide quality instruction for all students. This approval will also allow the Department to prioritize the safety of students and staff and to prevent the further spread of COVID-19.

3. RECOMMENDED EFFECTIVE DATE

Upon Board approval.

4. RECOMMENDED COMPLIANCE DATE

Upon Board approval.

5. DISCUSSION

a. Conditions leading to the recommendation:

The current COVID-19 pandemic has created an unprecedented situation globally and for our state. This has led to significant changes in the Department's approach to addressing the unique needs of our schools' learning environments, including the delivery of instruction and implementing the protocols and procedures which would be necessary to minimize any unnecessary risks which could be posed by COVID-19.

Ultimately, the Department requires flexibility to effectively meet the challenges of the current public health crisis to ensure the success of our students while also protecting their safety and the safety of the teachers and support staff at our schools. A waiver will allow for additional training and professional development on the delivery of instruction through blended and distance learning and on health and safety protocols and procedures prior to students returning to school.

Further flexibility and consideration is being requested for our multi-track schools whose unique situations require greater latitude to ensure a smooth transition to a blended learning environment that provides the necessary protection and safety precautions.

The Department will continue to monitor the rapidly-changing situation in regards to COVID-19 and will follow the most up-to-date guidance provided by state health officials and the Centers for Disease Control and Prevention (CDC).

b. Previous action of the Board on the same or similar matter:

On June 18, 2020, the Board unanimously approved requests to waive the school days and student hours requirement of HRS §302A-251 for 78 schools.

c. Other policies affected:

Pursuant to Board Policy 106-1 School Calendar, the school calendar shall be approved by the Board of Education. A general waiver of HRS §302A-251 will result in an amendment of the Board-approved 2020-2021 Official School Calendar to best address the reopening of our schools under the current conditions of the public health emergency.

d. Arguments in support of the recommendation:

The challenge of providing in-school instruction is due to circumstances outside of the control of the Department and the academic consequences of COVID-19 are being experienced by students at educational institutions throughout the globe. The recommended action will allow students to receive direct instruction while also providing for the flexibility to ensure the safety for students, teachers, and staff while at school campuses.

The recommended action will also allow for additional training and professional development days at the beginning of the 2020-2021 school year without extending the work year.

A denial of this recommendation will increase the difficulty of implementing schedules that maximize the maintenance of health and safety standards for students and staff, consistent with recommendations from state health officials and the CDC in preventing the spread of COVID-19.

e. Arguments against the recommendation:

Some may argue that the recommended action will result in a decrease in student instructional days which will contribute to additional learning loss and make it difficult for students, especially our vulnerable learners, to demonstrate proficiency in grade-level standards.

f. Other agencies or departments of the State of Hawaii involved in the action:

None.

- g. Possible reaction of the public, professional organizations, unions, Department staff and/or others to the recommendation:

The unique circumstances of COVID-19 requires the Department to prioritize the collective needs of our students, parents, professional staff and extended educational community to ensure the success of all public school students in achieving their educational goals. The Department remains committed to collaborating with all stakeholders to find innovative solutions in attaining this objective. Thus, the Department anticipates the overall reaction to this recommendation to be favorable.

Waiving the requirements of HRS §302A-251 for the Department for the 2020-2021 school year is a positive step forward in removing the unanticipated obstacles that may inhibit the reopening of schools and allowing for in-person direct instruction while protecting the safety and health of students, teachers, and school support staff.

The Department consulted with the Hawaii State Teachers Association, the Hawaii Government Employees Association, and the United Public Workers on the recommended amendment to the Board-approved 2020-2021 Official School Calendar.

- h. Educational implications:

Approval of the proposed general waiver will provide flexibility to balance the safety and health of our students and teachers with the need for direct in-school instruction.

- i. Personnel implications:

Teachers, leaders and support services staff will provide in-person instruction, distance learning, and a blended approach of in-person instruction and distance learning to provide the optimum flexibility between safety and educational rigor.

- j. Financial implications:

The recommended revision does not change any cost implications.

## 6. OTHER SUPPLEMENTARY RECOMMENDATIONS

None.

CMK:cm

Attachments: Attachment A: Board Policy 500-20: School Community Council Waivers  
Attachment B: HRS §302A-251 School year; student hours

c: Office of Strategy, Innovation and Performance

**POLICY 500-20**

**SCHOOL COMMUNITY COUNCIL WAIVERS**

The Board has established procedures whereby School Community Councils (“SCC”), upon application to the appropriate authorities, may be granted waivers from specific provisions in statute, rules, policies, procedures, regulations, or collective bargaining agreements. The Department shall administer the procedures and make them widely available to the public.

Waivers are designed to enhance flexibility in order to facilitate school improvement. Schools are encouraged to explore alternate solutions before seeking waivers or exceptions to collective bargaining agreements.

Schools shall ensure that requests for waivers and exceptions align with their respective school's Academic and Financial Plan and demonstrate how the waiver will improve student learning and increase student achievement.

To ensure SCCs and schools regularly review and update their Academic and Financial Plans, any waivers granted shall be effective for up to one school year. Nothing in this policy shall be construed to prohibit an SCC from requesting a waiver that may have been granted previously, provided that the waiver request still aligns with the school's Academic and Financial Plan.

The Board may grant general waivers from specific administrative rules, policies, or procedures under its jurisdiction or specific statutory provisions, as allowed by law, to apply to all schools under the same circumstances. General waivers shall be effective for up to one school year. The Board may extend general waivers if it determines a general waiver is more appropriate than changing permanently changing administrative rules, policies, or procedures or seeking permanent changes to statute.

[Approved: 11/17/2015 (as Board Policy 500.20); amended: 06/21/2016 (renumbered as Board Policy 500-20)]

*Former policy 2412 history: approved: 10/07/2004; amended: 05/05/2005; 01/19/2006*

## B. Curriculum and Instruction

**Law Journals and Reviews**

Helping Hawaii's Diverse Community of English Language Learners: Does the Hawai'i Department of Education Meet Federal Standards for English Language Learner Programs? 38 UH L. Rev. 35 (2016).

**§302A-251 School year; student hours.** (a) Notwithstanding any other law to the contrary, beginning with the 2011-2013 school years, all public schools, excluding charter schools and multi-track public schools, shall implement a school year of one hundred eighty days, excluding professional development days and other non-instructional days negotiated pursuant to chapter 89.

(b) Notwithstanding any other law to the contrary:

(1) For the 2011-2012 school year, fifty per cent of all public elementary schools in the State, excluding charter schools and multi-track public schools, shall implement a school year that includes nine hundred fifteen student hours; and

(2) Beginning with the 2012-2013 school year, all public elementary schools in the State, excluding charter schools and multi-track public schools, shall implement a school year that includes nine hundred fifteen student hours.

(c) Notwithstanding any other law to the contrary, for the 2015-2016 school year, all public secondary schools, excluding charter schools and multi-track public schools, shall implement a school year that includes nine hundred ninety student hours.

(d) Notwithstanding any other law to the contrary, beginning with the 2016-2017 school year, all public schools, excluding charter schools and multi-track public schools, shall implement a school year of one hundred eighty days, excluding professional development days and other non-instructional days negotiated pursuant to chapter 89, that shall include one thousand eighty student hours for both elementary and secondary school grades.

(e) The board, in its discretion, may grant a waiver to any individual school subject to the student hours or one hundred eighty day school year requirements in this section. The board shall adopt policies and procedures to grant a waiver under this subsection.

(f) For purposes of this section, "student hours" shall be inclusive of the full school day in alignment with the State's general learner outcomes.

(g) The department of education, with the board of education and office of the governor, and in consultation with representatives of the affected collective bargaining units, shall submit to the legislature, no later than twenty days prior to the convening of the regular sessions of 2013, 2014, 2015, and 2016, a report on its progress and efforts to meet the requirements of subsections (a), (b), (c), and (d). [L 2010, c 167, §3; am L 2011, c 52, §1; am L 2015, c 21, §1]

[Previous](#)

[Vol05\\_Ch0261-0319](#)

[Next](#)