



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

May 5, 2022

TO: The Honorable Catherine Payne
Chairperson, Board of Education

FROM: Lyla Berg, Board of Education Representative
Cara Tanimura, Board of Education Designee

SUBJECT: **Board Action on the School Community Council Requests for Exceptions to Collective Bargaining Agreements, Statutory Waivers, and Waivers of Hawaii State Board of Education Policy for School Year 2022-2023**

1. RECOMMENDATION

The Hawaii State Department of Education (Department) recommends that the Hawaii State Board of Education (Board) approve the School Community Council (SCC) Requests for Exceptions to the Hawaii State Teachers Association (HSTA) Collective Bargaining Agreement (CBA); Waivers of Section 302A-251 and Hawaii Revised Statutes (HRS); as noted in the summary table below.

School	Request Subject	Policy or Regulation	CBA Provision	Request Summary	Student time lost
Kauluwela Elementary School	Waiver Days	HRS 302A-251	HSTA CBA Article XVI: Section A.B.	2 Waiver Days for Professional Development (PD)	12 hours
Kauluwela Elementary	Parent Teacher Conference	DOE Reg. 4510.3	HSTA CBA Article XVI: Section A.B.	2 Days for Parent Teacher Conferences	2 hours
Kihei High School	Waiver Days	HRS 302A-251	HSTA CBA Article XVI: Section A.B.	4 Waiver Days for Professional Development (PD)	24 hours
Maunawili Elementary School	Waiver Days	HRS 302A-251	HSTA CBA Article XVI: Section A.B.	2 Waiver Days for Professional Development (PD)	12 hours

2. RECOMMENDED EFFECTIVE DATE

Upon Board approval to implement in School Year 2022-2023.

3. RECOMMENDED COMPLIANCE DATE

Upon Board approval.

4. DISCUSSION

a. Conditions leading to the recommendation:

Section 302A-1124 to 1127, HRS, authorizes schools to request waivers from existing state agency rules, policies, regulations, and procedures as well as exceptions to collective bargaining agreements as negotiated in accordance with current collective bargaining agreements and the provisions of Chapter 89, HRS.

All schools submitted their waiver requests by the February 1, 2022 deadline. As a school not yet open, Kihei High School's unique circumstance resulted in the need to revisit their application until all review and approval processes were completed. Kauluwela and Maunawili Elementary Schools' requests were mistakenly not included in the April 21, 2022 Board submittal.

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

On April 21, 2022, the Board unanimously approved 203 SCC Waiver requests for School Year 2022-2023.

c. Policies affected:

- Section 302A-251, HRS: School year; student hours (180 days, 1080 student hours) (Attachment A)
- DOE SP 4510.3 Released Time for Conferences to Report Student Progress (Attachment B)
- Hawaii State Teachers Association CBA
 - Article XVI - Work Year, Sections A, B, CC, DD

d. Arguments in support of the recommendation:

As a brand new school that will open to students School Year 2022-2023, Kihei High School's staff need additional time for planning, collaboration, and professional development during this first year.

Maunawili Elementary and Kauluwela Elementary both need two additional days for faculty to participate in professional development to implement new curriculum. Kauluwela Elementary is also requesting flexibility in conducting their parent teacher conferences.

Waiver requests have been reviewed and approved by school administrators, HSTA members, SCCs and respective Complex Area Superintendents and thoroughly vetted by the SCC Exception Review Committee.

e. Arguments against the recommendation:

These waiver requests will result in a decrease in student instructional hours for all students. Less student instructional days may make it difficult for students, especially vulnerable learners, to make gains in their academic achievement.

- f. Findings and conclusions of the Board committee:

The SCC Exception Review Committee, composed of the Board designees and representatives from the HSTA BU 05 and the Hawaii Government Employees Association (HGEA) BU 06, has agreed to this request.

- g. Other agencies or departments for the State of Hawaii involved in the action:

None.

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

Positive. All waiver requests have been reviewed and approved by administrators, HSTA members, and SCCs at the school-level and Complex Area Superintendents. Waiver requests have also been thoroughly vetted by the SCC Exception Review Committee composed of Board designees and members of both the HSTA BU 05 and the HGEA BU 06.

- i. Educational implications:

Explained on a case-by-case basis as stated in the school's SCC waiver request.

- j. Personnel implications:

None.

- k. Facilities implications:

None

- l. Financial implications:

None.

5. OTHER SUPPLEMENTARY RECOMMENDATIONS

None.

LB/CT:jd

Attachment A: Section 302A-251, HRS

Attachment B: DOE SP 4510.3

- c: Keith T. Hayashi, Interim Superintendent
Community Engagement Branch

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]

SP 4510.3 Released Time for Conferences to Report Student Progress

Approved: 05/03/2016 (as Board Policy 102.12); amended: 06/21/2016 (renumbered as Board Policy 102-12)

Former policy 4501 history: approved: 07/1996; amended: 09/1997, 06/2003

Former policy 4510 history: approved: 10/1970; amended: 06/1983, 03/1988, 04/2000, 06/2003

Regulations Adopted: 3/59; Am. 5/59; 10/70; Rescinded 9/74; Re-adopted 5/75,

Former code 5125

Released time for conferences to report student progress are subject to the following regulations:

1. That dismissal of classes be limited to:
 - a. The hour immediately before the end of the student day;
 - b. Ten days in any one year.
2. That appropriate means be determined by the principal that a majority of the parents approved the dismissal of classes for the purpose of holding conferences to report student progress.
3. That the plans for released time be made known to the district superintendent and approved in advance of the scheduled dates for dismissing classes.
4. That specific provisions be made for the evaluation of the released time project, including problems encountered.
5. That a report be made to the district superintendent on the results and evaluation of the first released time project in any school.
6. That provisions be made to supervise students in school when dismissal prior to the regular time creates undue hardship on the parents.
7. That students not be penalized when the parents are unable or unwilling to participate in early dismissal provisions of conferences.