



**STATE OF HAWAII
BOARD OF EDUCATION**

P.O. BOX 2360
HONOLULU, HAWAII 96804

July 15, 2021

TO: Board of Education

FROM: Catherine Payne
Chairperson, Board of Education

AGENDA ITEM: 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

At the Board of Education's ("Board") June 17, 2021 general business meeting, the Department of Education ("Department") recommended that the Board grant a general waiver to the school days and student hours requirements of Hawaii Revised Statutes Section ("HRS") 302A-251 for the 2020-2021 school year consistent with the Board-approved revisions to the 2020-2021 official school calendar equaling a reduction of nine student instructional days and 54 student hours. The Department's memorandum with its recommendation is attached as **Exhibit A**.

Several Board members had concerns about the Board's legal authority grant a general waiver from HRS Section 302A-251, and the Board deferred action on the request for the general waiver until it received clarification from its attorney on the Board's authority.

The Board's attorney has advised that the Board has the authority to grant a general waiver of instructional hours and days to a single school or group of schools.

Exhibit A

Superintendent Christina Kishimoto's memorandum dated June 17, 2021



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

OFFICE OF THE SUPERINTENDENT

June 17, 2021

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. EXECUTIVE SUMMARY

The Coronavirus Disease 2019 ("COVID-19") global pandemic has greatly impacted public education systems across the nation during the 2020-2021 school year. School leaders had to juggle health and safety protocols and procedures with the delivery of high quality instruction. To ensure the health and safety of our students and staff, the Hawaii State Department of Education ("Department") incorporated 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 additional training and professional development days occurred during the first two weeks of the new school year, resulting in a reduction of the number of days and student hours for the 2020-2021 school year.

During the July 30, 2020 Hawaii State Board of Education ("Board") Special Meeting, the Department presented a revised 2020-2021 Official School Calendar with the conversion of nine (9) student instructional days, or 54 student hours, to non-instructional days of training and professional development.¹ The Board unanimously adopted the revised school calendar.²

During the same Special Meeting, the Department also requested Board action to waive the school days and student hours requirements of Hawaii Revised Statutes (HRS) §302A-251,

¹https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/Special%20Meeting_07302020_Revision%20to%20the%20Departments%202020-2021%20School%20Calendar.pdf

²<https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/a15fa9df11029fd70a2565cb0065b6b7/827310bdb876b7af0a2585de00740ea6?OpenDocument>

School year; student hours.³ Board Policy 500-20, School Community Council Waivers, allows the 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 waiver would allow for a school year of 171 student instructional days, or 1,026 student hours, in alignment with the Board-approved revisions to the 2020-2021 school calendar. The Board deferred action on the general waiver.⁴

During the February 18, 2021 Board Student Achievement Committee meeting, the Department presented its requirements and guidance regarding calculating student hours for the 2020-2021 school year.⁵ In this presentation, the Department requested that the Board consider a general waiver to waive the requirements of HRS 302A-251 for the 2020-2021 school year. Due to the conversion of nine (9) instructional days to non-instructional days for training and professional development, our schools would not meet the requirement of 180 instructional days and 1080 student hours for the 2020-2021 school year.

During the 2020-2021 school year, the Department remained committed to supporting all students academically as well as socially and emotionally and securing the health and safety of the Department’s students, leaders, teachers, and staff.

2. RECOMMENDATION

The Department recommends that the Board grants a general waiver to the school days and student hours requirements of HRS §302A-251 for the 2020-2021 school year consistent with the Board-approved revisions to the 2020-2021 Official School Calendar. The revisions resulted 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 were used for training and professional development for school staff in preparation for the reopening of schools.

3. RECOMMENDED EFFECTIVE DATE

Upon Board approval.

4. RECOMMENDED COMPLIANCE DATE

Upon Board approval.

5. DISCUSSION

a. Conditions leading to the recommendation:

The COVID-19 pandemic 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

³https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/Special_20200730_General%20Waiver%20of%20Student%20Instructional%20Hours%20and%20School%20Year%20Requirements.pdf

⁴<https://alala1.k12.hi.us/STATE/BOE/Minutes.nsf/a15fa9df11029fd70a2565cb0065b6b7/827310bdb876b7af0a2585de00740ea6?OpenDocument>

⁵https://boe.hawaii.gov/Meetings/Notices/Meeting%20Material%20Library/SAC_02182021_Presentation%20on%20Calculating%20Student%20Hours%20for%202020-2021%20SY.pdf

and implementing the protocols and procedures which would be necessary to minimize any unnecessary risks which could be posed by COVID-19.

To address health and safety concerns and mitigate the spread of COVID-19 as schools prepared to reopen, the Department delayed the start of the 2020-2021 school year by converting the first nine (9) student instructional days to non-instructional days for training and professional development. This is reflected in the Board-approved revised 2020-2021 Official School Calendar.

Due to the conversion of student instructional days to non-instructional days, all schools did not meet the requirement of 180 school days and 1080 student hours for the 2020-2021 school year.

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 pursuant to Board Policy 106-5, Student Instructional Hours And School Year Requirements Policy And Waiver Process.

c. Other policies affected:

Board Policy 106-1, School Calendar, states that the school calendar for student attendance shall set the number of days of classroom instruction as required by law. Currently, the 2020-2021 school calendar does not meet the requirement of the law. HRS §302A-251 and Board Policy 500-20, School Community Council Waivers, allows the Board to waive the 180 school days and 1080 student hours requirements of HRS §302A-251.

d. Arguments in support of the recommendation:

The challenge of providing in-school instruction was due to circumstances outside of the control of the Department and the academic consequences of COVID-19 were experienced by students at educational institutions throughout the globe. The nine training and professional development days were necessary to ensure the health and safety of students, teachers, and staff while on our school campuses to enable student learning.

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

e. Arguments against the recommendation:

Some may argue that the Department should lengthen the current school year instead of waiving the student instructional days and hours pursuant to state law.

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 required 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 remained committed to collaborating with all stakeholders to find innovative solutions in attaining this objective. Thus, the Department anticipated the overall reaction to this recommendation to be favorable.

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 validates the Department's need 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 provided 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. Facilities implications:

The recommended revision does not change any facilities implications.

- k. Financial implications:

The recommended revision does not change any cost implications.

6. OTHER SUPPLEMENTARY RECOMMENDATIONS

None.

CMK:wk

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]

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