

1 EDUCATION AND LABOR CABINET

2 Kentucky Board of Education

3 Department of Education

4 (New Administrative Regulation)

5 701 KAR 5:170. Waiver Requests.

6 RELATES TO: KRS 156.070, 156.160, 156.161, 157.360, 158.854.

7 STATUTORY AUTHORITY: KRS 156.070, 156.161.

8 NECESSITY, FUNCTION, AND CONFORMITY: KRS 156.070 authorizes the Kentucky Board

9 of Education to manage and control the common schools, including prescribing administrative

10 regulations the Kentucky Board of Education deems necessary for the efficient management,

11 control and operation of public schools. KRS 156.161 authorizes the Kentucky Board of

12 Education to promulgate administrative regulations to establish procedures for processing

13 requests to waive statutes or administrative regulations pursuant to KRS 156.161. This

14 administrative regulation sets forth the procedures for processing requests to waive statutes or

15 administrative regulations pursuant to KRS 156.161.

16 Section 1. Definitions.

17 (1) "Amendment application" means a waiver request wherein a school district board of

18 education seeks to amend the waiver of a statute or administrative regulation previously granted

19 to the requestor by the Kentucky Board of Education and still in effect as of the date of the

20 waiver request.

21 (2) "Commissioner" means the commissioner of the department.

(3) “Department” means the Kentucky Department of Education.

(4) “New application” means a waiver request wherein a school district board of education seeks a waiver of a statute or administrative regulation not previously granted to the requestor by the Kentucky Board of Education, or previously granted to the requestor by the Kentucky Board of Education but expired or terminated as of the date of the waiver request.

(5) “Renewal application” means a waiver request wherein a school district board of education seeks renewal of a waiver of a statute or administrative regulation previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.

(6) “Special education maximum class size application” means a waiver request wherein a superintendent or school based decision making council seeks a waiver of the special education class sizes prescribed in 707 KAR 1:350, or to renew a waiver of the special education class sizes prescribed in 707 KAR 1:350 previously granted to the requestor by the Kentucky Board of Education and still in effect as of the date of the waiver request.

(7) “Waiver request” means a request to waive statutes or administrative regulations made pursuant to KRS 156.161 and this administrative regulation.

Section 2. Waiver Request Application.

(1) A waiver request shall be in the form of a new application, a renewal application, an amendment application, or a special education maximum class size application, and shall comply with the requirements of this section.

(2) A waiver request shall be submitted by U.S. mail to the department with the phrase “Attn: Waiver Request” in the address. The Commissioner may allow email submission of waiver requests at his or her discretion to an email address selected by the Commissioner.

(3) A new application shall include an Application Cover Sheet, and attached thereto a Specific Waiver Request Form for each statute or administrative regulation from which the requestor seeks a waiver.

(4) A renewal application shall include an Application Cover Sheet, and attached thereto a Renewal Application Form.

(5) An amendment application shall include an Application Cover Sheet, and attached thereto an Amendment Request Form.

(6) A special education maximum class size application shall include a Special Education Maximum Class Size Request Form.

(7) A waiver request shall be deemed incomplete if:

(a) The request fails to include all forms required for the waiver request as provided in subsections (3) – (6) of this section;

(b) The forms required for the waiver request as provided in subsections (3) – (6) of this section contain missing or incomplete responses; or

(c) Attachments prescribed within the forms required for the waiver request as provided in subsections (3) – (6) of this section are missing or incomplete.

Section 3. Receipt and Technical Review.

(1) Upon receipt of a waiver request, the department shall:

(a) Notate the date the department received the request;

(b) Assign a number to identify the request;

(c) Notify the Kentucky Board of Education that the waiver request should appear on its next regular meeting for review and decision; and

(d) Perform a technical review of the waiver request as set forth in subsection (2) of this section.

(2) The department shall perform the following technical review for each waiver request received:

(a) Calculate the number of calendar days from the date noted on the waiver request pursuant to subsection (1)(a) of this section and the next regular meeting of the Kentucky Board of Education following that date;

(b) Determine whether the waiver request seeks waiver of any statute or administrative regulation set forth in KRS 156.161(1)(a)-(j); and

(c) Determine whether the waiver request meets the requirements of KRS 156.161(2) and Section 2 of this administrative regulation.

(3) Following the technical review performed pursuant to subsection (2) of this section, the department shall notify the party submitting the waiver request of the following:

(a) The date the department received the waiver request;

(b) The number assigned by the department to identify the waiver request;

(c) The Kentucky Board of Education meeting date when the waiver request will be acted upon;

(d) If the number of calendar days calculated pursuant to subsection (2)(a) of this section is less than forty-five (45), that denial of the waiver request shall be recommended to the Kentucky Board of Education due to insufficient time to conduct a meaningful review of the request, unless the Commissioner determines the waiver request is narrowly tailored to address an emergency situation requiring timely action by the Kentucky Board of Education;

(e) If the waiver request seeks waiver of any statute or administrative regulation set forth in KRS 156.161(1)(a)-(j), that denial of those portions of the request shall be recommended to the Kentucky Board of Education;

1 (f) If the waiver request does not meet the requirements of KRS 156.161(2) or Section 2 of this
2 administrative regulation, that denial of the request shall be recommended to the Kentucky Board
3 of Education, along with a description of how the request does not meet the requirements of KRS
4 156.161(2) or Section 2 of this administrative regulation;

5 (g) Instructions on how the party submitting the waiver request may voluntarily withdraw its
6 request from Kentucky Board of Education review prior to the date set forth in paragraph (c) of
7 this subsection; and

8 (h) Instructions on how the party submitting the waiver request may request that the Kentucky
9 Board of Education act upon the request on a date different from that set forth in paragraph (c) of
10 this subsection.

11 (4) Following the notice provided in subsection (3) of this section, the department shall take the
12 following steps in processing the waiver request:

13 (a) If the waiver request is recommended to the Kentucky Board of Education for denial as set
14 forth in paragraph (d) or (f) of subsection (3) of this section, then such recommendation shall be
15 forwarded to the Kentucky Board of Education and the department shall terminate further review
16 of the waiver request pursuant to this administrative regulation;

17 (b) If portions of the waiver request are recommended to the Kentucky Board of Education for
18 denial as set forth in paragraph (e) of subsection (3) of this section, then such recommendation
19 shall be forwarded to the Kentucky Board of Education and the department shall terminate
20 further review of those portions of the waiver request pursuant to this administrative regulation;

21 and

(c) Any waiver request, or portion thereof, not recommended for denial to the Kentucky Board of Education as set forth in paragraphs (d) – (f) of subsection (3) of this section shall proceed to substantive review pursuant to Section 4 of this administrative regulation.

Section 4. Substantive Review.

(1) A waiver request, or portion thereof, that proceeds to substantive review pursuant to subsection (4)(c) of Section 3 of this administrative regulation shall be reviewed and recommended by the Commissioner to the Kentucky Board of Education for approval or denial following such review.

(2) In reviewing and evaluating the waiver request for a recommendation pursuant to subsection (1) of this section, the Commissioner shall consider the following factors:

(a) The entirety of the waiver request as set forth in subsections (3) – (6) of Section 2 of this administrative regulation;

(b) Student academic achievement for the past three full school years for which data is available in the schools and programs identified in the waiver request;

(c) Whether and to what extent the waiver request describes processes the requesting party will utilize to measure success as a result of the waiver, if granted, using data and accountability;

(d) The likelihood of the schools and programs identified in the waiver request realizing meaningful operational efficiency improvements if the waiver is granted;

(e) The likelihood of the students enrolled in the schools and programs identified in the waiver request realizing improved academic achievement if the waiver is granted;

(f) Whether and to what extent the waiver request reasonably anticipates potential adverse impacts on student academic achievement and addresses such potential adverse impacts;

(g) Whether and to what extent the waiver request demonstrates the establishment of high expectations for student learning and evidence based best practices for learning in the schools and programs identified in the request; and

(h) For special education maximum class size applications, any additional factors to be considered pursuant to 707 KAR 1:350 for waiver or exemption of special education maximum class sizes.

(3) Following review and evaluation as provided in subsection (2) of this section, the Commissioner shall recommend approval of a waiver request, or portion thereof, only if he or she finds the requested waiver is more likely than not:

(a) To improve school or program operations without hindering student academic achievement; or

(b) To improve student academic achievement at the school or program.

Section 5. Notification of Kentucky Board of Education Action.

(1) Within ten (10) business days following action by the Kentucky Board of Education on any waiver request, the department shall notify the requesting party of:

(a) The action taken by the Kentucky Board of Education on the waiver request; and

(b) If any portion of the waiver request was granted:

1. The specific statutes or administrative regulations waived;
2. The schools or programs to which the waiver applies;
3. The expiration date of the waiver granted;
4. The process to file a renewal application to avoid expiration of the waiver granted; and
5. The process to file an amendment application to seek future amendments to the waiver granted.

(2) The department shall maintain a list of waiver requests granted by the Kentucky Board of Education. The department shall remove from the list any waivers that are no longer effective due to expiration or termination.

Section 6. Termination of Waiver.

(1) A party to whom a waiver request is granted may request voluntary termination of the waiver by submitting an amendment application using the procedures set forth in Section 2 of this administrative regulation.

(2) The Kentucky Board of Education may terminate a waiver it previously granted as provided in KRS 156.161(9). No less than twenty (20) calendar days prior to a meeting of the Kentucky Board of Education to consider termination of a waiver pursuant to this subsection, the department shall provide written notice to the party to whom the waiver was granted of the following:

(a) That the Kentucky Board of Education will consider termination of a previously granted waiver as provided in KRS 156.161(9);

(b) The Kentucky Board of Education meeting date when such consideration and action shall occur;

(c) The reasons for potential termination of the previously granted waiver along with copies of any documents that will be considered by the Kentucky Board of Education as evidence in support of the reasons for potential termination; and

(d) That any written response of the party to whom the waiver was granted, received by the department within fifteen (15) calendar days following the date of the notice, shall be provided to the Kentucky Board of Education for its consideration prior to any action to terminate a previously granted waiver as provided in KRS 156.161(9).

(3) Within five (5) business days following any action by the Kentucky Board of Education pursuant to subsection (2) of this section, the department shall provide written notice to the party granted a waiver subject to termination action of the outcome of the Kentucky Board of Education's action pursuant to KRS 156.161(9).

Section 7. Incorporation by Reference.

(1) The following material is incorporated by reference:

(a) "Application Cover Sheet", June 2025;

(b) "Specific Waiver Request Form", June 2025;

(c) "Renewal Application Form", June 2025;

(d) "Amendment Request Form", June 2025; and

(e) "Special Education Maximum Class Size Request Form", June 2025.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at Kentucky Department of Education, 300 Sower Blvd. 5th Floor, Frankfort, Kentucky, Monday through Friday, 8:00 a.m to 4:30 p.m. eastern time. This material may also be access on the Kentucky Department of Education website at:

<https://www.education.ky.gov/districts/legal/Pages/Kentucky-Revised-Statutes.aspx>.

This is to certify that the chief state school officer has reviewed and recommended this administrative regulation prior to its adoption by the Kentucky Board of Education, as required by KRS 156.070(5).

(Date)

Dr. Robbie Fletcher
Commissioner of Education

(Date)

Sharon Porter Robinson, Chair
Kentucky Board of Education

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall be held on **DATE**, at **TIME**, in the State Board Room, Fifth Floor, 300 Sower Boulevard, Frankfort, Kentucky. Individuals interested in being heard at this hearing shall notify this agency in writing by five workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing was received by that date, the hearing may be cancelled. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to be heard at the public hearing, you may submit written comments on the proposed administrative regulation. Written comments shall be accepted through **DATE**. Send written notification of intent to be heard at the public hearing or written comments on the proposed administrative regulation to the contact person:

CONTACT PERSON: Todd G. Allen, General Counsel, Kentucky Department of Education, 300 Sower Boulevard, 5th Floor, Frankfort, KY 40601, phone 502-564-4474, fax 502-564-9321, email: regcomments@education.ky.gov

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

702 KAR 5:170

Contact Person: Todd G. Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation sets forth the procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161.

(b) The necessity of this administrative regulation: KRS 156.161 authorizes the Kentucky Board of Education to promulgate administrative regulations to establish the procedures for processing requests to waive statutes or administrative regulations. Without this regulation, no procedure will exist for local boards of education to utilize KRS 156.161 to request that the Kentucky Board of Education waive statutes or administrative regulations.

(c) How this administrative regulation conforms to the content of the authorizing statutes: KRS 156.161 specifically authorizes the Kentucky Board of Education to promulgate administrative regulations to establish the procedures for processing requests to waive statutes or administrative regulations.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation sets forth the procedures for processing requests to waive statutes or administrative regulations pursuant to KRS 156.161.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.

(b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.

(c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.

(d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Kentucky Department of Education and 171 public school districts.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: The Kentucky Department of Education must follow the procedures listed in the regulation for review, processing, and recommendation to the Kentucky Board of Education for any waiver request received from a local board of education. Local boards of education are not required to take any action as a result of the administrative regulation. However, if they choose to apply to the Kentucky Board of Education for a waiver pursuant to KRS 156.161, they must utilize the forms and comply with the procedures set forth in the regulation.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be minimal. Costs to local boards of education are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): The Kentucky Department of Education will be guided by clear procedures that are uniform to all applicants. Local school boards will have access to fillable forms and instructions to guide them through the process of requesting a waiver pursuant to KRS 156.161.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be minimal.

(b) On a continuing basis: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be minimal.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: General funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment: The administrative regulation does not establish or increase any fees. Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be minimal. If this changes in the future, the Kentucky Department of Education will explore the need for additional funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: There are no fees associated with this administrative regulation.

(9) TIERING: Is tiering applied? (Explain why or why not) Tiering is not applied. The regulation applies uniformly.

FISCAL IMPACT STATEMENT

701 KAR 5:170

Contact Person: Todd G. Allen

Phone: 502-564-4474

Email: todd.allen@education.ky.gov

(1) Identify each state statute, federal statute, or federal regulation that requires or authorizes the action taken by the administrative regulation: KRS 156.070, 156.161.

(2) State whether this administrative regulation is expressly authorized by an act of the General Assembly, and if so, identify the act: This administrative regulation is expressly authorized by KRS 156.161.

(3)(a) Identify the promulgating agency and any other affected state units, parts, or divisions: Kentucky Board of Education and Kentucky Department of Education.

(b) Estimate the following for each affected state unit, part, or division identified in (3)(a):

1. Expenditures:

For the first year: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be minimal.

For subsequent years: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be minimal.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: This regulation is not expected to result in cost savings to the Kentucky Department of Education.

For subsequent years: This regulation is not expected to result in cost savings to the Kentucky Department of Education.

(4)(a) Identify affected local entities (for example: cities, counties, fire departments, school districts): Local school districts.

(b) Estimate the following for each affected local entity identified in (4)(a):

1. Expenditures:

For the first year: Costs to local school districts are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal.

For subsequent years: Costs to local school districts are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal.

2. Revenues:

For the first year: This regulation is not expected to generate revenue.

For subsequent years: This regulation is not expected to generate revenue.

3. Cost Savings:

For the first year: Local school districts may realize cost savings depending on the specific waivers requests and granted.

For subsequent years: Local school districts may realize cost savings depending on the specific waivers requests and granted.

(5)(a) Identify any affected regulated entities not listed in (3)(a) or (4)(a): None.

(b) Estimate the following for each regulated entity identified in (5)(a):

1. Expenditures:

For the first year: Not applicable.

For subsequent years: Not applicable.

2. Revenues:

For the first year: Not applicable.

For subsequent years: Not applicable.

3. Cost Savings:

For the first year: Not applicable.

For subsequent years: Not applicable.

(6) Provide a narrative to explain the following for each entity identified in (3)(a), (4)(a), and (5)(a):

(a) Fiscal impact of this administrative regulation: Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be minimal. Costs to local school districts are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal. This regulation is not expected to generate revenue. Local school districts may realize cost savings depending on the specific waivers requests and granted.

(b) Methodology and resources used to reach this conclusion: The agency considered the procedures called for by this administrative regulation, as well as historical volume of requests from school district to waive administrative regulations.

(7) Explain, as it relates to the entities identified in (3)(a), (4)(a), and (5)(a):

(a) Whether this administrative regulation will have a “major economic impact”, as defined by KRS 13A.010(13): This regulation will not have a “major economic impact” as defined by KRS 13A.010(13).

(b) The methodology and resources used to reach this conclusion: As previously stated, local boards of education are not required to take any action as a result of the administrative regulation. However, if they choose to apply to the Kentucky Board of Education for a waiver pursuant to KRS 156.161, they must utilize the forms and comply with the procedures set forth

in the regulation. Costs to local school districts are in the form of staff time completing required forms if the school district chooses to pursue a waiver request. These costs are estimated to be minimal. Costs to the Kentucky Department of Education are in the form of staff time processing waiver requests. These costs depend on the volume of requests received. At this time, costs to the Kentucky Department of Education are estimated to be minimal based on historical volume of requests from school districts to waive administrative regulations.

Summary Page - Incorporation by Reference

701 KAR 5:170. Waiver Requests.

The following documents are incorporated by reference:

- (1) “Application Cover Sheet”, June 2025. This form serves as the required cover sheet for a new waiver application, a renewal application, and an amendment application. The form collects information uniform to all three types of waiver applications and provides applicants with notice of various requirements of KRS 156.161 and this administrative regulation.
- (2) “Specific Waiver Request Form”, June 2025. This form is attached to the Application Cover Sheet in the case of a new waiver application for each statute or administrative regulation that an applicant requests be waived. This form collects information required by KRS 156.161 and this administrative regulation for evaluating each request to waive statute or administrative regulation.
- (3) “Renewal Application Request Form”, June 2025. This form is attached to the Application Cover Sheet in the case of a request to renew a previously granted waiver from statutes or administrative regulations. This form collects information required by KRS 156.161 and this administrative regulation for evaluating whether or not to grant a renewal of a previously granted waiver from statute or administrative regulation.
- (4) “Amendment Request Form”, June 2025. This form is attached to the Application Cover Sheet in the case of a request to renew a previously granted waiver from statutes or administrative regulations. This form collects information required by KRS 156.161 and this administrative regulation for evaluating whether or not to grant an amendment to a previously granted waiver from statute or administrative regulation.
- (5) “Special Education Maximum Class Size Request Form”, June 2025. This form collects information required to request a waiver from the education class sizes and caseloads prescribed in 707 KAR 1:350 as permitted by KRS 157.360(5) and this administrative regulation.

For official use only.

Date Received:

Waiver Application No.:

APPLICATION COVER SHEET

Pursuant to KRS 156.161 and 701 KAR 5:170, [Click or tap here to enter text.](#) School District “District” hereby submits this waiver request to the Kentucky Board of Education seeking waiver from compliance with one or more statutes or administrative regulations.

The waiver(s) sought herein by District are sought to apply to the following District schools or programs: [Click or tap here to enter text..](#)

This waiver request is a:

District must select only one of the following

- ☐ NEW APPLICATION. District seeks new waiver(s) of statutes or administrative regulations not previously granted to District by the Kentucky Board of Education pursuant to 701 KAR 5:170, or previously granted pursuant to 701 KAR 5:170 but now expired.
- ☐ RENEWAL APPLICATION. District seeks renewal of waiver(s) previously granted by the Kentucky Board of Education pursuant to 701 KAR 5:170 and still in effect as of the date of this application.
- ☐ AMENDMENT APPLICATION. District seeks to amend waiver(s) of statutes or administrative regulations previously granted to District by the Kentucky Board of Education pursuant to 701 KAR 5:170 and still in effect as of the date of this application.

In submitting this waiver request, District acknowledges and agrees to each of the following:

1. The Kentucky Board of Education does not have the authority to 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. The Kentucky Board of Education does not have the authority to waive any statute outside of its enforcement authority, or any administrative regulation promulgated by an agency other than the Kentucky Board of Education.
 3. District conducted a thorough review of this waiver request prior to submission to ensure that no part of its waiver request involves statutes or administrative regulations beyond the authority of the Kentucky Board of Education to waive as described in paragraphs (1) and (2) above. District understands that if it is determined that any portion of its request involves statutes or administrative regulations beyond the authority of the Kentucky Board of Education to waive as described in paragraphs (1) and (2) above, District's waiver request will be denied.
 4. District reviewed and understands the requirements and provisions of 701 KAR 5:170 as it relates to this waiver request.
 5. If District selected above that this is a NEW APPLICATION, District attaches to this Application Cover Sheet a Specific Waiver Request Form for each statute or administrative regulation for which District requests a waiver, and that District identified within each Specific Waiver Request Form the specific section, subsection, paragraph, or subparagraph of each statute or administrative regulation from which District requests a waiver.
 6. If District selected above that this is a RENEWAL APPLICATION, District attaches to this Application Cover Sheet a Renewal Application Form and all attachments required by the Renewal Application Form.
 7. If District selected above that this is an AMENDMENT APPLICATION, District attaches to this Application Cover Sheet an Amendment Request Form for a previously granted and unexpired waiver.
 8. If the District seeks identification of a school(s) or program(s) listed in the forms attached hereto as a School of Innovation pursuant to KRS 156.161 (4), it has: (a) utilized the Specific Waiver Request Form for each statute or administrative regulation from which District requests a waiver that prevents the District from entering into an agreement with an education service provider to assist in the management and operation of the school(s) or program(s) identified on the form; and (b) attached to the Specific Waiver Request Form a copy of the proposed agreement with the education service provider for the school(s) or program(s).
 9. In determining whether to grant this waiver request, in whole or in part, the Kentucky Board of Education will evaluate whether the request demonstrates that the waiver is more likely than not: (a) to improve the operation of the school(s) or program(s) listed in the forms attached

hereto, without hindering student academic achievement; or (b) to improve student academic achievement at the school(s) or program(s) listed in the forms attached hereto. District recognizes that such evaluation and determination is within the discretion of the Kentucky Board of Education.

10. District understands that if the Kentucky Board of Education at any time finds by a two-thirds (2/3) vote that a waiver granted pursuant to this request hindered school or program operations, endangered students, impeded student academic achievement, or supported financial malfeasance or criminal activity, then the waiver shall be rescinded. District recognizes that such a determination is within the discretion of the Kentucky Board of Education.
11. District recognizes that the existence of a waiver shall not negate the legal duties or professional responsibilities of a District employee, and agrees that it shall implement policies and procedures accordingly.
12. District understands and agrees that any waiver granted pursuant to this request, except for a waiver of minimum nutritional standards as provided in KRS 158.854, shall expire on June 30 of the third full school year following the date the request was approved by the Kentucky Board of Education, regardless of subsequent amendment, unless the Kentucky Board of Education renews the waiver prior to expiration. Waivers of minimum nutritional standards as provided in KRS 158.854 shall expire one year following the date the request was approved by the Kentucky Board of Education, regardless of subsequent amendment, unless the Kentucky Board of Education renews the waiver prior to expiration. District further understands and agrees that it shall track the expiration date of any waiver(s) granted pursuant to this request and will immediately implement all statutory and regulatory requirements upon the expiration date of any waivers granted pursuant to this request. District acknowledges that it is District's responsibility to request any renewals pursuant to the requirements of 701 KAR 5:170.
13. The information provided in this waiver request application and the attachments hereto are true and correct to the best of District's knowledge. The representations made by District in this waiver request application and the attachments hereto will be relied upon by the Kentucky Board of Education as material in its decision making. Upon learning that any information provided herein is inaccurate or incomplete, District will take affirmative steps to correct such information.
14. District represents that this waiver request, including any attachments hereto, were presented to the District board of education and approved by said board during a meeting on [Click or tap to enter a date..](#)
15. District understands that no waiver granted as part of this request shall imply, suggest, or otherwise indicate that any other statute or administrative regulation is implicitly waived and that District will continue to comply with all statutes and administrative regulations not specifically waived by the Kentucky Board of Education in response to this request.

Signature

Click or tap here to enter text.

District Board Chair

Click or tap to enter a date.

Date

Mail this completed form and all attachments to:

Kentucky Department of Education

ATTN: Waiver Request

300 Sower Blvd. 5th Floor

Frankfort, KY 40601



SPECIFIC WAIVER REQUEST FORM

District Name:

Click or tap here to enter text.

School(s)/Program(s) to Which Waiver Request Applies:

Click or tap here to enter text.

Statute or Administrative Regulation District Requests be Waived:

Districts should include the specific section(s), subsection(s), paragraph(s), or subparagraph(s) that it requests be waived for the statute or administrative regulation listed. A separate Specific Waiver Request Form is required for each statute or administrative regulation that District requests be waived.

Click or tap here to enter text.

School of Innovation Designation

A District may seek to have school(s) or program(s) listed above identified as a “School of Innovation” for the purpose of allowing the District to enter into an agreement with an education service provider to assist in the management and operation of the school(s) or program(s). Does District seek to have the school(s) or program(s) listed above identified as a “School of Innovation” for this purpose?

District must select only one of the following:

☐

NO.

☐

YES. If District selects “YES,” it must describe below how the statute or administrative regulation listed above currently prevents the District from entering into an agreement with an education service provider to assist in the management and operation of the school(s) or program(s), and attach a copy of the proposed contract with an education service provider to assist in the management and operation of the school(s) or program(s).

Click or tap here to enter text.

Waiver Justification

Describe how the District wishes to operate the school(s) or program(s) listed above and how the statute or administrative regulation listed above prevents desired operations.

Click or tap here to enter text.

Describe in detail how waiver of the statute or administrative regulation listed above will improve operations or student academic achievement in the school(s) or program(s) listed above.

Click or tap here to enter text.

Describe how waiver of the statute or administrative regulation listed above may hinder student academic achievement in the school(s) or program(s) listed above. Describe how District will address any hindrance of student academic achievement if the waiver is granted.

Click or tap here to enter text.

Describe how District intends to measure the impact on students enrolled in the school(s) or program(s) listed above if a waiver is granted for the statute or administrative regulation listed above.

Click or tap here to enter text.

List every attachment to this form District provides in support of its responses above, including a brief description of how the attachment supports District's responses.

Click or tap here to enter text.



RENEWAL APPLICATION FORM

District Name: Click or tap here to enter text.		
Date Waiver Was Previously Granted: Click or tap to enter a date.	Expiration Date of Current Waiver: Click or tap to enter a date.	Number Assigned to Previously Granted Waiver Application: Click or tap here to enter text.
School(s)/Program(s) to Which Current Waiver Applies: Click or tap here to enter text.		

Original Application

District must select both of the following:

- ☐ District attaches to this Renewal Application the letter from the Kentucky Department of Education granting the waiver District seeks to renew pursuant to KRS 156.161 (7) and 701 KAR 5:170.
- ☐ District attaches to this Renewal Application the complete waiver request application it previously filed that resulted in the waiver District seeks to renew pursuant to KRS 156.161 (7) and 701 KAR 5:170.

Amendments to Original Application

Since being granted the waiver(s) District seeks to renew with this application, has District sought any amendment(s) to the waiver(s) granted?

District must select only one of the following:

- ☐ NO.
- ☐ YES. If District selects “YES,” it must list the numbers assigned to any application(s) for amendment:
Click or tap here to enter text.

Evidence of Improvement

Describe the operational improvement of the school(s) or program(s) subject to the waiver District wishes to renew, the academic achievement of the students enrolled in the school(s) or program(s), comparison of those students with similar students across the state, and any other benefit the waiver has had on student academic achievement.

Click or tap here to enter text.

List every attachment to this application District provides in support of its response above, including a brief description of how the attachment supports District's response.

Click or tap here to enter text.



AMENDMENT REQUEST FORM

District Name: Click or tap here to enter text.		
Date Waiver Was Previously Granted: Click or tap to enter a date.	Expiration Date of Current Waiver: Click or tap to enter a date.	Number Assigned to Previously Granted Waiver Application: Click or tap here to enter text.
School(s)/Program(s) to Which Currently Approved Waiver Applies: Click or tap here to enter text.		

Original Application

District must select both of the following:

- ☐ District attaches to this Amendment Request the letter from the Kentucky Department of Education granting the waiver request District seeks to amend pursuant to KRS 156.161 (6) and 701 KAR 5:170.
- ☐ District attaches to this Amendment Request the complete waiver request application it previously filed that resulted in the waiver District seeks to amend pursuant to KRS 156.161 (6) and 701 KAR 5:170.

Previous Amendments to Original Application

Since being granted the waiver request District seeks to amend with this application, has District sought any previous amendment(s) to the waiver request granted?

District must select only one of the following:

- ☐ NO.
- ☐ YES. If District selects “YES,” it must list the numbers assigned to any previous application(s) for amendment:
Click or tap here to enter text.

Waiver Amendment(s) Requested

By selecting the applicable options below, please indicate how the District requests to amend the waiver request previously granted to the District.

District should select any of the following that apply to its Amendment Application:

- ☐ District requests to amend the school(s) or program(s) to which the previously granted waiver applies. If the amendment application is approved, the previously granted waiver request, as described in the sections above, will only apply to the school(s) or program(s) listed by the District in this response. Furthermore, if the amendment application is approved, the change in school(s) or program(s) to which the previously granted waiver request applies will apply prospectively (i.e. not retroactively) from the date the amendment application is approved through the expiration date of the previously granted waiver request as described in the sections above.

School(s)/Program(s) to which District requests the previously granted waiver request now apply:
Click or tap here to enter text.

- ☐ District requests waiver of additional statutes or administrative regulations to be included in a previously granted waiver request. If this amendment application is approved, waiver of these additional statutes or administrative regulations will apply prospectively (i.e. not retroactively) from the date the amendment application is approved through the expiration date of the previously granted waiver request as described in the sections above. District attaches to this form a Specific Waiver Request Form for each statute or administrative regulation District requests be waived and incorporated into the previously granted waiver request as described in the sections above.

- ☐ District requests termination, in its entirety, of the previously granted waiver request as described in the sections above. If this amendment application is approved, the previously granted waiver of every statute or administrative regulation associated with the waiver request, as described in the sections above, shall terminate on the date the amendment application is approved.

Explain why District seeks voluntary termination, in its entirety, of the previously granted waiver request:
Click or tap here to enter text.



District requests termination of some, but not all, of the waiver(s) of statutes or administrative regulations associated with its previously granted waiver request as described in the sections above. If this amendment application is approved, the waiver(s) of specific statutes or administrative regulations shall terminate on the date the amendment application is approved. The remaining waivers of statutes or administrative regulations associated with the previously granted waiver request described in the sections above shall continue in effect through the expiration date of the previously granted waiver request.

List each statute and administrative regulation for which District was previously granted a waiver, but now wishes to terminate the waiver previously granted. For each statute or administrative regulation listed, provide an explanation as to why District seeks voluntary termination of the waiver of that statute or administrative regulation.

[Click or tap here to enter text.](#)

For official use only.

Date Received:

Waiver Application No.:

SPECIAL EDUCATION MAXIMUM CLASS SIZE REQUEST FORM

Pursuant to KRS 157.360(5) and 701 KAR 5:170, Requestor, as described below, hereby submits this waiver request to the Kentucky Board of Education seeking waiver from compliance with special education class sizes and caseloads prescribed in 707 KAR 1:350 for the school and teacher as described herein.

The Requestor, as referenced throughout this document is:

Select only one of the following

- ☐ District Superintendent [Click or tap here to enter text.](#)
If this request is made by the superintendent, he/she shall sign the request form below.
- ☐ School Based Decision Making Council for the school referenced in this request form.
The council met on [Click or tap to enter a date.](#) and took action to approve this request for submission. If this request is made by the council, the school principal shall sign the request form below.

The Requestor seeks the following type of waiver:

Select all that apply

- ☐ Caseload
- ☐ Class Size

School District: Click or tap here to enter text.	District Number: Click or tap here to enter text.
Superintendent: Click or tap here to enter text.	Phone Number: Click or tap here to enter text.
Director of Special Education: Click or tap here to enter text.	Phone Number: Click or tap here to enter text.
School: Click or tap here to enter text.	
Principal: Click or tap here to enter text.	
Special Education Regional Technical Assistance Center: Click or tap here to enter text.	

Teacher: Click or tap here to enter text.	Total Caseload: Click or tap here to enter text.
Classroom Type: Click or tap here to enter text.	Special Education Code: Click or tap here to enter text.
School Level: Click or tap here to enter text.	School Grade Range: Click or tap here to enter text.

Has a waiver from special education class size and/or caseload requirements in 707 KAR 1:350 been utilized for the teacher described above at any time in the last three school years?

Select only one of the following

- ☐ NO.
- ☐ YES. If you select “yes” explain the circumstances leading to a repeated need for waiver from special education class size and/or grade range requirements in 707 KAR 1:350 for the teacher:

Click or tap here to enter text.

Provide a description of the circumstances and specific reasons that a waiver will: (a) improve the operation of the school listed herein, without hindering student academic achievement; or (b) improve student academic achievement at the school listed herein.

Click or tap here to enter text.

Is there a full-time paraeducator assigned to the teacher listed above for each class period?

Select only one of the following

- ☐ YES.
- ☐ NO. If you select “no” is there a paraeducator assigned to the special education teacher listed above when an overage occurs?

Select only one of the following

- ☐ YES.
- ☐ NO.

REQUIRED ATTACHMENTS. Requestor must attach the following documents to this request form. Check each below to indicate the Requestor has attached the required documents.

- ☐ Daily schedule of the teacher listed above, including class size and caseload.
- ☐ Plan for reducing the class size and/or caseload prior to the beginning of the next school year.

In submitting this waiver request, Requestor acknowledges and agrees to each of the following:

1. Requestor reviewed and understands the requirements and provisions of 701 KAR 5:170 as it relates to this waiver request.
2. In determining whether to grant this waiver request, in whole or in part, the Kentucky Board of Education will evaluate whether the request demonstrates that the waiver is more likely than not: (a) to improve the operation of the school listed herein, without hindering student

academic achievement; or (b) to improve student academic achievement at the school listed herein. Requestor recognizes that such evaluation and determination is within the discretion of the Kentucky Board of Education.

3. Requestor understands that if the Kentucky Board of Education at any time finds by a two-thirds (2/3) vote that a waiver granted pursuant to this request hindered school or program operations, endangered students, impeded student academic achievement, or supported financial malfeasance or criminal activity, then the waiver shall be rescinded. Requestor recognizes that such a determination is within the discretion of the Kentucky Board of Education.
4. Requestor recognizes that the existence of a waiver shall not negate the legal duties or professional responsibilities of a school district employee and agrees that it shall implement policies and procedures accordingly.
5. Requestor represents and agrees that, if granted, the waiver requested herein will not impede any exceptional child from receiving a free appropriate public education in the least restrictive environment, as prescribed by his or her individual education program.
6. Requestor understands and agrees that any waiver granted pursuant to this request shall expire on June 30 of the third full school year following the date the request was approved by the Kentucky Board of Education, regardless of subsequent amendment, unless the Kentucky Board of Education renews the waiver prior to expiration. Requestor further understands and agrees that it shall track the expiration date of any waiver granted pursuant to this request and will immediately implement all statutory and regulatory requirements upon the expiration date of any waivers granted pursuant to this request. Requestor acknowledges that it is Requestor's responsibility to request any renewals pursuant to the requirements of 701 KAR 5:170. If the waiver sought herein is granted and utilized beyond the beginning of the school year following request, Requestor agrees to report to the Kentucky Department of Education on an annual basis the reasons the caseload and/or class size has not been reduced to comply with 707 KAR 1:350.
7. The information provided in this waiver request application and the attachments hereto are true and correct to the best of Requestor's knowledge. The representations made by Requestor in this waiver request application and the attachments hereto will be relied upon by the Kentucky Board of Education as material in its decision making. Upon learning that any information provided herein is inaccurate or incomplete, Requestor will take affirmative steps to correct such information.
8. Requestor understands that no waiver granted as part of this request shall imply, suggest, or otherwise indicate that any other statute or administrative regulation is implicitly waived and that Requestor will continue to comply with all statutes and administrative regulations not specifically waived by the Kentucky Board of Education in response to this request. Furthermore, Requestor understands that any waiver granted as part of this request shall apply only to the teacher described in this request and shall not extend to any other teacher in the school or district, absent a specific request granted for other teachers.

Signature

Click or tap here to enter text.

Select only one of the following

☐ Superintendent

☐ School Principal

Click or tap to enter a date.

Date

Mail this completed form and all attachments to:

Kentucky Department of Education

ATTN: Waiver Request

300 Sower Blvd. 5th Floor

Frankfort, KY 40601