

The background is a composite image. The top left shows a line of yellow school buses with "SCHOOL BUS" written on the front. The bottom left shows a classroom with blue walls, desks, chairs, and colorful balloons. A white diagonal line separates the two images.

701 KAR 5:170 701 KAR 5:170E Waiver Requests

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Senate Bill 207 (2025)

- Repealed the “Old” System of Waivers:
 - KRS 156.160(2) allowed the KBE, upon request of a local board of education, to waive any KBE regulation except those providing for: (1) health/safety; (2) civil rights; (3) compliance with federal law; (4) assessment/accountability.
 - KRS 156.108 Districts of Innovation allowed for waiver of regulations and statutes.
- “New” Waiver Process:
 - Includes waiver of statutes and regulations within KBE enforcement authority.
 - Can request “School of Innovation” designation to allow contract with education service provider to assist in management of the school.
 - Granted waivers are effective three full school years.
 - Subject to early termination by 2/3 vote of KBE.
 - KBE to promulgate regulations with procedures and forms.

What can't be waived?

- Health/Safety – including required criminal background checks.
- Civil Rights.
- Federal law.
- Compulsory attendance.
- Certification requirements for teachers, except waiver possible for up to 25% of teaching staff in a school if they hold a bachelors/masters in subject to be taught.
- State assessment.
- Financial audits.
- Open records and open meetings.
- Procurement requirements.
- Minimum instructional time at least equivalent to student instructional year.

Four types of waiver requests...

- New Application
- Renewal Application
- Amendment Application
- Special Education Maximum Class Size Application

Application Cover Sheet



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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.

- Indicate application type (New, Renewal, Amendment).
- Name schools or programs in district to which the waiver will apply if granted.
- 15 paragraphs explaining program requirements and required attachments.
- Signed by local board chair on behalf of local board.



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Specific Waiver Request Form



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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.

- Attached to Application Cover Sheet for New Applications.
- Indicate whether district seeks “School of Innovation” designation.
- Explain how the waiver of each statute or regulation will improve operations or student achievement.

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?



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Renewal and Amendment

- Renewal Application Form
 - Attached to Application Cover Sheet
 - Identify the previous waiver, including any amendments.
 - Provide evidence of improvement as a result of previously granted waiver.
- Amendment Application Form
 - Attached to the Application Cover Sheet.
 - Identify the previous waiver, including any amendments.
 - District may request:
 - Add or remove schools/programs to which the waiver applies;
 - Additional statutes/regulations be waived for the schools/programs previously granted a waiver;
 - Termination, in whole or part, of previously granted waivers.

Special Education Maximum Class Size Application

- Can be requested by Superintendent or SBDM.
- Collects information regarding the school, teacher, classroom type, caseload, etc.
- Signed by Superintendent or School Principal.
- Waivers previously decided by OSEEL. Now, decided by KBE.

Technical Review

- KDE will perform technical review and notify the requesting party:
 - Date KDE received the request;
 - Number assigned to identify the request;
 - KBE meeting date when waiver request will be acted upon;
 - If the request was received by KDE less than 45 days prior to the next KBE meeting, that automatic denial will be recommended unless determined by Commissioner to address emergency;
 - If the request seeks waiver of any statute or regulation KBE can't waive (SB 207 Sect. 1(1)) that denial of those portions will be recommended to KBE;
 - If the request doesn't meet the requirements of SB 207 or the regulation, denial of the request will be recommended to KBE;
 - Instructions on voluntary withdrawal of the request prior to the assigned KBE meeting; and
 - Instructions on how the requestor may request a different KBE meeting date.

Substantive Review

- Portions of the waiver not recommended for denial during technical review undergo substantive review:
 - Student academic achievement past three school years;
 - Processes the requestor will use to measure success of the waiver, if granted;
 - Likelihood of the schools/programs realizing meaningful operational efficiency improvements;
 - Likelihood of students in the schools/programs realizing improved academic achievement;
 - How district anticipates and addresses potential adverse impacts on student academic achievement;
 - Establishment of high expectations for student learning and evidence-based best practices for learning;
 - For Special Education Maximum Class Size Application, any additional factors set forth in IDEA regulation 707 KAR 1:350.

Approval/Disapproval Standard

- 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:
 - To improve school or program operations without hindering student academic achievement; or
 - To improve student academic achievement at the school/program.
- The KBE makes the ultimate decision to approve or deny the waiver request, in whole or in part.
- Within 10 business days following the KBE action, the requestor will receive written notification.

Termination of Waiver

- Voluntary termination through Amendment Application.
- Involuntary termination:
 - “If the state board at any time finds by a two-thirds majority vote that a specific waiver previously granted has hindered school or program operations, endangered students, impeded student academic achievement, or supported financial misfeasance or criminal activity, then the waiver shall be rescinded.”
 - No less than 20 days notice of the meeting to determine involuntary termination:
 - Provide reasons and documents to be considered by KBE as evidence to support termination.
 - Ability of district to respond in writing within 15 calendar days following the notice.

Questions?