

AN ACT concerning education.

**Be it enacted by the People of the State of Illinois,
represented in the General Assembly:**

Section 5. The School Code is amended by changing Sections 2-3.25g and 27-6 as follows:

(105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

Sec. 2-3.25g. Waiver or modification of mandates within the School Code and administrative rules and regulations.

(a) In this Section:

"Board" means a school board or the governing board or administrative district, as the case may be, for a joint agreement.

"Eligible applicant" means a school district, joint agreement made up of school districts, or regional superintendent of schools on behalf of schools and programs operated by the regional office of education.

"State Board" means the State Board of Education.

(b) Notwithstanding any other provisions of this School Code or any other law of this State to the contrary, eligible applicants may petition the State Board of Education for the waiver or modification of the mandates of this School Code or of the administrative rules and regulations promulgated by the State Board of Education. Waivers or modifications of administrative rules and regulations and modifications of mandates of this School Code may be requested when an eligible applicant demonstrates that it can address the intent of the rule or mandate in a more effective, efficient, or economical manner or when necessary to stimulate innovation or improve student performance. Waivers of mandates of the School Code may be requested when the waivers are necessary to stimulate innovation or improve student performance. Waivers may not be requested from laws, rules, and regulations pertaining to

special education, teacher certification, or teacher tenure and seniority or from compliance with the No Child Left Behind Act of 2001 (Public Law 107-110).

(c) Eligible applicants, as a matter of inherent managerial policy, and any Independent Authority established under Section 2-3.25f may submit an application for a waiver or modification authorized under this Section. Each application must include a written request by the eligible applicant or Independent Authority and must demonstrate that the intent of the mandate can be addressed in a more effective, efficient, or economical manner or be based upon a specific plan for improved student performance and school improvement. Any eligible applicant requesting a waiver or modification for the reason that intent of the mandate can be addressed in a more economical manner shall include in the application a fiscal analysis showing current expenditures on the mandate and projected savings resulting from the waiver or modification. Applications and plans developed by eligible applicants must be approved by the board or regional superintendent of schools applying on behalf of schools or programs operated by the regional office of education following a public hearing on the application and plan and the opportunity for the board or regional superintendent to hear testimony from educators directly involved in its implementation, parents, and students. If the applicant is a school district or joint agreement, the public hearing shall be held on a day other than the day on which a regular meeting of the board is held. If the applicant is a school district, the public hearing must be preceded by at least one published notice occurring at least 7 days prior to the hearing in a newspaper of general circulation within the school district that sets forth the time, date, place, and general subject matter of the hearing. If the applicant is a joint agreement or regional superintendent, the public hearing must be preceded by at least one published notice (setting forth the time, date, place, and general subject matter of the hearing) occurring at least 7 days prior

to the hearing in a newspaper of general circulation in each school district that is a member of the joint agreement or that is served by the educational service region, provided that a notice appearing in a newspaper generally circulated in more than one school district shall be deemed to fulfill this requirement with respect to all of the affected districts. The eligible applicant must notify in writing the affected exclusive collective bargaining agent and those State legislators representing the eligible applicant's territory of its intent to seek approval of a waiver or modification and of the hearing to be held to take testimony from educators. The affected exclusive collective bargaining agents shall be notified of such public hearing at least 7 days prior to the date of the hearing and shall be allowed to attend such public hearing. The eligible applicant shall attest to compliance with all of the notification and procedural requirements set forth in this Section.

(d) A request for a waiver or modification of administrative rules and regulations or for a modification of mandates contained in this School Code shall be submitted to the State Board of Education within 15 days after approval by the board or regional superintendent of schools. The application as submitted to the State Board of Education shall include a description of the public hearing. Following receipt of the request, the State Board shall have 45 days to review the application and request. If the State Board fails to disapprove the application within that 45 day period, the waiver or modification shall be deemed granted. The State Board may disapprove any request if it is not based upon sound educational practices, endangers the health or safety of students or staff, compromises equal opportunities for learning, or fails to demonstrate that the intent of the rule or mandate can be addressed in a more effective, efficient, or economical manner or have improved student performance as a primary goal. Any request disapproved by the State Board may be appealed to the General Assembly by the eligible applicant as

outlined in this Section.

A request for a waiver from mandates contained in this School Code shall be submitted to the State Board within 15 days after approval by the board or regional superintendent of schools. The application as submitted to the State Board of Education shall include a description of the public hearing. The description shall include, but need not be limited to, the means of notice, the number of people in attendance, the number of people who spoke as proponents or opponents of the waiver, a brief description of their comments, and whether there were any written statements submitted. The State Board shall review the applications and requests for completeness and shall compile the requests in reports to be filed with the General Assembly. The State Board shall file reports outlining the waivers requested by eligible applicants and appeals by eligible applicants of requests disapproved by the State Board with the Senate and the House of Representatives before each March ~~May~~ 1 and October 1. The General Assembly may disapprove the report of the State Board in whole or in part within 60 ~~30~~ calendar days after each house of the General Assembly next convenes after the report is filed by adoption of a resolution by a record vote of the majority of members elected in each house. If the General Assembly fails to disapprove any waiver request or appealed request within such 60 ~~30~~ day period, the waiver or modification shall be deemed granted. Any resolution adopted by the General Assembly disapproving a report of the State Board in whole or in part shall be binding on the State Board.

(e) An approved waiver or modification may remain in effect for a period not to exceed 5 school years and may be renewed upon application by the eligible applicant. However, such waiver or modification may be changed within that 5-year period by a board or regional superintendent of schools applying on behalf of schools or programs operated by the regional office of education following the procedure as set forth in this Section for the initial waiver or modification request. If neither the State Board of Education nor the General Assembly

disapproves, the change is deemed granted.

(f) On or before February 1, 1998, and each year thereafter, the State Board of Education shall submit a cumulative report summarizing all types of waivers of mandates and modifications of mandates granted by the State Board or the General Assembly. The report shall identify the topic of the waiver along with the number and percentage of eligible applicants for which the waiver has been granted. The report shall also include any recommendations from the State Board regarding the repeal or modification of waived mandates.

(Source: P.A. 93-470, eff. 8-8-03; 93-557, eff. 8-20-03; 93-707, eff. 7-9-04.)

(105 ILCS 5/27-6) (from Ch. 122, par. 27-6)

Sec. 27-6. Courses in physical education - Special activities.

(a) Pupils enrolled in the public schools and State universities engaged in preparing teachers shall, as soon as practicable, be required to engage daily~~7~~ during the school day, except on block scheduled days for those public schools engaged in block scheduling, in courses of physical education for such periods as are compatible with the optimum growth and development needs of individuals at the various age levels except when appropriate excuses are submitted to the school by a pupil's parent or guardian or by a person licensed under the Medical Practice Act of 1987 and except as provided in subsection (b) of this Section.

Special activities in physical education shall be provided for pupils whose physical or emotional condition, as determined by a person licensed under the Medical Practice Act of 1987, prevents their participation in the courses provided for normal children.

(b) A school board is authorized to excuse pupils enrolled in grades 11 and 12 from engaging in physical education courses if those pupils request to be excused for any of the following reasons: (1) for ongoing participation in an interscholastic

athletic program; (2) to enroll in academic classes which are required for admission to an institution of higher learning, provided that failure to take such classes will result in the pupil being denied admission to the institution of his or her choice; or (3) to enroll in academic classes which are required for graduation from high school, provided that failure to take such classes will result in the pupil being unable to graduate. A school board may also excuse pupils in grades 9 through 12 enrolled in a marching band program for credit from engaging in physical education courses if those pupils request to be excused for ongoing participation in such marching band program. A school board may also excuse pupils in grades 9 through 12 enrolled in a Reserve Officer's Training Corps (ROTC) program sponsored by the school district from engaging in physical education courses. School boards which choose to exercise this authority shall establish a policy to excuse pupils on an individual basis.

(c) The provisions of this Section are subject to the provisions of Section 27-22.05.

(Source: P.A. 88-269; 89-155, eff. 7-19-95; 89-175, eff. 7-19-95; 89-626, eff. 8-9-96.)