



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB5820

by Rep. Sue Scherer

SYNOPSIS AS INTRODUCED:

105 ILCS 5/2-3.25g	from Ch. 122, par. 2-3.25g
105 ILCS 5/24-5	from Ch. 122, par. 24-5
105 ILCS 5/27-6	from Ch. 122, par. 27-6

Amends the School Code. Provides that an approved waiver from or modification to a physical education mandate may remain in effect for a period not to exceed 2 school years (rather than 5 school years like other mandate waivers) and may be renewed no more than 2 times upon application by an eligible applicant. Provides that an approved waiver from or modification to a physical education mandate may be changed within the 2-year period by the school board or regional superintendent of schools, whichever is applicable, following the procedure set forth in the Code for the initial waiver or modification request. Provides that a school board may require of new substitute teachers evidence of physical fitness to perform duties assigned and shall require of new substitute teachers evidence of freedom from communicable disease, and provides that evidence may consist of a physical examination by a health care provider (instead of treating substitute teachers like other new employees who are required to provide evidence of physical fitness to perform duties assigned and freedom from communicable disease through a physical examination by a health care provider). Provides that a school board may determine the schedule or frequency of physical education courses, provided that an elementary school pupil engage in a course of physical education for a minimum of 150 minutes per week and a high school pupil engage in a course of physical education for a minimum of 225 minutes per week (rather than engaging in a course of physical education for a minimum of 3 days per 5-day week). Effective immediately.

LRB100 20085 AXK 35368 b

FISCAL NOTE ACT
MAY APPLY

STATE MANDATES
ACT MAY REQUIRE
REIMBURSEMENT

A BILL FOR

1 AN ACT concerning education.

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

4 Section 5. The School Code is amended by changing Sections
5 2-3.25g, 24-5, and 27-6 as follows:

6 (105 ILCS 5/2-3.25g) (from Ch. 122, par. 2-3.25g)

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

9 (a) In this Section:

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

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

17 "Implementation date" has the meaning set forth in
18 Section 24A-2.5 of this Code.

19 "State Board" means the State Board of Education.

20 (b) Notwithstanding any other provisions of this School
21 Code or any other law of this State to the contrary, eligible
22 applicants may petition the State Board of Education for the
23 waiver or modification of the mandates of this School Code or

1 of the administrative rules and regulations promulgated by the
2 State Board of Education. Waivers or modifications of
3 administrative rules and regulations and modifications of
4 mandates of this School Code may be requested when an eligible
5 applicant demonstrates that it can address the intent of the
6 rule or mandate in a more effective, efficient, or economical
7 manner or when necessary to stimulate innovation or improve
8 student performance. Waivers of mandates of the School Code may
9 be requested when the waivers are necessary to stimulate
10 innovation or improve student performance or when the applicant
11 demonstrates that it can address the intent of the mandate of
12 the School Code in a more effective, efficient, or economical
13 manner. Waivers may not be requested from laws, rules, and
14 regulations pertaining to special education, teacher educator
15 licensure, teacher tenure and seniority, or Section 5-2.1 of
16 this Code or from compliance with the Every Student Succeeds
17 Act (Public Law 114-95). Eligible applicants may not seek a
18 waiver or seek a modification of a mandate regarding the
19 requirements for (i) student performance data to be a
20 significant factor in teacher or principal evaluations or (ii)
21 teachers and principals to be rated using the 4 categories of
22 "excellent", "proficient", "needs improvement", or
23 "unsatisfactory". On September 1, 2014, any previously
24 authorized waiver or modification from such requirements shall
25 terminate.

26 (c) Eligible applicants, as a matter of inherent managerial

1 policy, and any Independent Authority established under
2 Section 2-3.25f-5 of this Code may submit an application for a
3 waiver or modification authorized under this Section. Each
4 application must include a written request by the eligible
5 applicant or Independent Authority and must demonstrate that
6 the intent of the mandate can be addressed in a more effective,
7 efficient, or economical manner or be based upon a specific
8 plan for improved student performance and school improvement.
9 Any eligible applicant requesting a waiver or modification for
10 the reason that intent of the mandate can be addressed in a
11 more economical manner shall include in the application a
12 fiscal analysis showing current expenditures on the mandate and
13 projected savings resulting from the waiver or modification.
14 Applications and plans developed by eligible applicants must be
15 approved by the board or regional superintendent of schools
16 applying on behalf of schools or programs operated by the
17 regional office of education following a public hearing on the
18 application and plan and the opportunity for the board or
19 regional superintendent to hear testimony from staff directly
20 involved in its implementation, parents, and students. The time
21 period for such testimony shall be separate from the time
22 period established by the eligible applicant for public comment
23 on other matters.

24 (c-5) If the applicant is a school district, then the
25 district shall post information that sets forth the time, date,
26 place, and general subject matter of the public hearing on its

1 Internet website at least 14 days prior to the hearing. If the
2 district is requesting to increase the fee charged for driver
3 education authorized pursuant to Section 27-24.2 of this Code,
4 the website information shall include the proposed amount of
5 the fee the district will request. All school districts must
6 publish a notice of the public hearing at least 7 days prior to
7 the hearing in a newspaper of general circulation within the
8 school district that sets forth the time, date, place, and
9 general subject matter of the hearing. Districts requesting to
10 increase the fee charged for driver education shall include in
11 the published notice the proposed amount of the fee the
12 district will request. If the applicant is a joint agreement or
13 regional superintendent, then the joint agreement or regional
14 superintendent shall post information that sets forth the time,
15 date, place, and general subject matter of the public hearing
16 on its Internet website at least 14 days prior to the hearing.
17 If the joint agreement or regional superintendent is requesting
18 to increase the fee charged for driver education authorized
19 pursuant to Section 27-24.2 of this Code, the website
20 information shall include the proposed amount of the fee the
21 applicant will request. All joint agreements and regional
22 superintendents must publish a notice of the public hearing at
23 least 7 days prior to the hearing in a newspaper of general
24 circulation in each school district that is a member of the
25 joint agreement or that is served by the educational service
26 region that sets forth the time, date, place, and general

1 subject matter of the hearing, provided that a notice appearing
2 in a newspaper generally circulated in more than one school
3 district shall be deemed to fulfill this requirement with
4 respect to all of the affected districts. Joint agreements or
5 regional superintendents requesting to increase the fee
6 charged for driver education shall include in the published
7 notice the proposed amount of the fee the applicant will
8 request. The eligible applicant must notify in writing the
9 affected exclusive collective bargaining agent and those State
10 legislators representing the eligible applicant's territory of
11 its intent to seek approval of a waiver or modification and of
12 the hearing to be held to take testimony from staff. The
13 affected exclusive collective bargaining agents shall be
14 notified of such public hearing at least 7 days prior to the
15 date of the hearing and shall be allowed to attend such public
16 hearing. The eligible applicant shall attest to compliance with
17 all of the notification and procedural requirements set forth
18 in this Section.

19 (d) A request for a waiver or modification of
20 administrative rules and regulations or for a modification of
21 mandates contained in this School Code shall be submitted to
22 the State Board of Education within 15 days after approval by
23 the board or regional superintendent of schools. The
24 application as submitted to the State Board of Education shall
25 include a description of the public hearing. Following receipt
26 of the waiver or modification request, the State Board shall

1 have 45 days to review the application and request. If the
2 State Board fails to disapprove the application within that 45
3 day period, the waiver or modification shall be deemed granted.
4 The State Board may disapprove any request if it is not based
5 upon sound educational practices, endangers the health or
6 safety of students or staff, compromises equal opportunities
7 for learning, or fails to demonstrate that the intent of the
8 rule or mandate can be addressed in a more effective,
9 efficient, or economical manner or have improved student
10 performance as a primary goal. Any request disapproved by the
11 State Board may be appealed to the General Assembly by the
12 eligible applicant as outlined in this Section.

13 A request for a waiver from mandates contained in this
14 School Code shall be submitted to the State Board within 15
15 days after approval by the board or regional superintendent of
16 schools. The application as submitted to the State Board of
17 Education shall include a description of the public hearing.
18 The description shall include, but need not be limited to, the
19 means of notice, the number of people in attendance, the number
20 of people who spoke as proponents or opponents of the waiver, a
21 brief description of their comments, and whether there were any
22 written statements submitted. The State Board shall review the
23 applications and requests for completeness and shall compile
24 the requests in reports to be filed with the General Assembly.
25 The State Board shall file reports outlining the waivers
26 requested by eligible applicants and appeals by eligible

1 applicants of requests disapproved by the State Board with the
2 Senate and the House of Representatives before each March 1 and
3 October 1.

4 The report shall be reviewed by a panel of 4 members
5 consisting of:

6 (1) the Speaker of the House of Representatives;

7 (2) the Minority Leader of the House of
8 Representatives;

9 (3) the President of the Senate; and

10 (4) the Minority Leader of the Senate.

11 The State Board of Education may provide the panel
12 recommendations on waiver requests. The members of the panel
13 shall review the report submitted by the State Board of
14 Education and submit to the State Board of Education any notice
15 of further consideration to any waiver request within 14 days
16 after the member receives the report. If 3 or more of the panel
17 members submit a notice of further consideration to any waiver
18 request contained within the report, the State Board of
19 Education shall submit the waiver request to the General
20 Assembly for consideration. If less than 3 panel members submit
21 a notice of further consideration to a waiver request, the
22 waiver may be approved, denied, or modified by the State Board.
23 If the State Board does not act on a waiver request within 10
24 days, then the waiver request is approved. If the waiver
25 request is denied by the State Board, it shall submit the
26 waiver request to the General Assembly for consideration.

1 The General Assembly may disapprove any waiver request
2 submitted to the General Assembly pursuant to this subsection
3 (d) in whole or in part within 60 calendar days after each
4 house of the General Assembly next convenes after the waiver
5 request is submitted by adoption of a resolution by a record
6 vote of the majority of members elected in each house. If the
7 General Assembly fails to disapprove any waiver request or
8 appealed request within such 60 day period, the waiver or
9 modification shall be deemed granted. Any resolution adopted by
10 the General Assembly disapproving a report of the State Board
11 in whole or in part shall be binding on the State Board.

12 (e) Except for a waiver from or modification to a physical
13 education mandate, an ~~An~~ approved waiver or modification may
14 remain in effect for a period not to exceed 5 school years and
15 may be renewed upon application by the eligible applicant.
16 However, such waiver or modification may be changed within that
17 5-year period by a board or regional superintendent of schools
18 applying on behalf of schools or programs operated by the
19 regional office of education following the procedure as set
20 forth in this Section for the initial waiver or modification
21 request. If neither the State Board of Education nor the
22 General Assembly disapproves, the change is deemed granted.

23 An approved waiver from or modification to a physical
24 education mandate may remain in effect for a period not to
25 exceed 2 school years and may be renewed no more than 2 times
26 upon application by the eligible applicant. An approved waiver

1 from or modification to a physical education mandate may be
2 changed within the 2-year period by the board or regional
3 superintendent of schools, whichever is applicable, following
4 the procedure set forth in this Section for the initial waiver
5 or modification request. If neither the State Board of
6 Education nor the General Assembly disapproves, the change is
7 deemed granted.

8 (f) (Blank).

9 (Source: P.A. 99-78, eff. 7-20-15; 100-465, eff. 8-31-17.)

10 (105 ILCS 5/24-5) (from Ch. 122, par. 24-5)

11 Sec. 24-5. Physical fitness and professional growth.

12 (a) In this Section, "employee" means any employee of a
13 school district, a student teacher, an employee of a contractor
14 that provides services to students or in schools, or any other
15 individual subject to the requirements of Section 10-21.9 or
16 34-18.5 of this Code.

17 (b) This subsection (b) does not apply to substitute
18 teacher employees. School boards shall require of new employees
19 evidence of physical fitness to perform duties assigned and
20 freedom from communicable disease. Such evidence shall consist
21 of a physical examination by a physician licensed in Illinois
22 or any other state to practice medicine and surgery in all its
23 branches, a licensed advanced practice registered nurse, or a
24 licensed physician assistant not more than 90 days preceding
25 time of presentation to the board, and the cost of such

1 examination shall rest with the employee. A new or existing
2 employee may be subject to additional health examinations,
3 including screening for tuberculosis, as required by rules
4 adopted by the Department of Public Health or by order of a
5 local public health official. The board may from time to time
6 require an examination of any employee by a physician licensed
7 in Illinois to practice medicine and surgery in all its
8 branches, a licensed advanced practice registered nurse, or a
9 licensed physician assistant and shall pay the expenses thereof
10 from school funds.

11 (b-5) School boards may require of new substitute teacher
12 employees evidence of physical fitness to perform duties
13 assigned and shall require of new substitute teacher employees
14 evidence of freedom from communicable disease. Evidence may
15 consist of a physical examination by a physician licensed in
16 Illinois or any other state to practice medicine and surgery in
17 all its branches, a licensed advanced practice nurse, or a
18 licensed physician assistant not more than 90 days preceding
19 time of presentation to the board, and the cost of such
20 examination shall rest with the substitute teacher employee. A
21 new or existing substitute teacher employee may be subject to
22 additional health examinations, including screening for
23 tuberculosis, as required by rules adopted by the Department of
24 Public Health or by order of a local public health official.
25 The board may from time to time require an examination of any
26 substitute teacher employee by a physician licensed in Illinois

1 to practice medicine and surgery in all its branches, a
2 licensed advanced practice nurse, or a licensed physician
3 assistant and shall pay the expenses thereof from school funds.

4 (c) School boards may require teachers in their employ to
5 furnish from time to time evidence of continued professional
6 growth.

7 (Source: P.A. 99-173, eff. 7-29-15; 100-513, eff. 1-1-18.)

8 (105 ILCS 5/27-6) (from Ch. 122, par. 27-6)

9 Sec. 27-6. Courses in physical education required; special
10 activities.

11 (a) Pupils enrolled in the public schools and State
12 universities engaged in preparing teachers shall be required to
13 engage ~~during the school day, except on block scheduled days~~
14 ~~for those public schools engaged in block scheduling,~~ in
15 courses of physical education for such periods as are
16 compatible with the optimum growth and developmental needs of
17 individuals at the various age levels except when appropriate
18 excuses are submitted to the school by a pupil's parent or
19 guardian or by a person licensed under the Medical Practice Act
20 of 1987 and except as provided in subsection (b) of this
21 Section. A school board may determine the schedule or frequency
22 of physical education courses, provided that an elementary
23 school pupil shall engage in a course of physical education for
24 a minimum of 150 minutes per week and a high school pupil shall
25 engage in a course of physical education for a minimum of 225

1 ~~minutes per week a pupil engages in a course of physical~~
2 ~~education for a minimum of 3 days per 5-day week.~~

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

8 (b) A school board is authorized to excuse pupils enrolled
9 in grades 11 and 12 from engaging in physical education courses
10 if those pupils request to be excused for any of the following
11 reasons: (1) for ongoing participation in an interscholastic
12 athletic program; (2) to enroll in academic classes which are
13 required for admission to an institution of higher learning,
14 provided that failure to take such classes will result in the
15 pupil being denied admission to the institution of his or her
16 choice; or (3) to enroll in academic classes which are required
17 for graduation from high school, provided that failure to take
18 such classes will result in the pupil being unable to graduate.
19 A school board may also excuse pupils in grades 9 through 12
20 enrolled in a marching band program for credit from engaging in
21 physical education courses if those pupils request to be
22 excused for ongoing participation in such marching band
23 program. A school board may also, on a case-by-case basis,
24 excuse pupils in grades 7 through 12 who participate in an
25 interscholastic or extracurricular athletic program from
26 engaging in physical education courses. In addition, a pupil in

1 any of grades 3 through 12 who is eligible for special
2 education may be excused if the pupil's parent or guardian
3 agrees that the pupil must utilize the time set aside for
4 physical education to receive special education support and
5 services or, if there is no agreement, the individualized
6 education program team for the pupil determines that the pupil
7 must utilize the time set aside for physical education to
8 receive special education support and services, which
9 agreement or determination must be made a part of the
10 individualized education program. However, a pupil requiring
11 adapted physical education must receive that service in
12 accordance with the individualized education program developed
13 for the pupil. If requested, a school board is authorized to
14 excuse a pupil from engaging in a physical education course if
15 the pupil has an individualized educational program under
16 Article 14 of this Code, is participating in an adaptive
17 athletic program outside of the school setting, and documents
18 such participation as determined by the school board. A school
19 board may also excuse pupils in grades 9 through 12 enrolled in
20 a Reserve Officer's Training Corps (ROTC) program sponsored by
21 the school district from engaging in physical education
22 courses. School boards which choose to exercise this authority
23 shall establish a policy to excuse pupils on an individual
24 basis.

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

1 (Source: P.A. 100-465, eff. 8-31-17.)

2 Section 99. Effective date. This Act takes effect upon
3 becoming law.