



WASB Sample Resolution for Requesting a Waiver of School Board or School District Requirements under Section 118.38 of the State Statutes

Sample Waiver Resolution #2

This sample includes more detail than Sample #1 in terms of the background that identifies the scope and history of the public health emergency as it affects public schools. This sample is not intended as legal advice, and may or may not be appropriate for use by any particular school district. *(This sample presents a modified version of a resolution that was originally prepared by the Green Bay Area Public School District. WASB thanks Green Bay for sharing and permitting WASB to use their work.)*

(INSERT NAME OF SCHOOL DISTRICT)

SCHOOL BOARD RESOLUTION FOR THE WAIVER OF CERTAIN SCHOOL BOARD OR SCHOOL DISTRICT REQUIREMENTS PURSUANT TO WIS. STAT. §§ 118.38(1) AND (1m)

WHEREAS, Wis. Stat. §118.38(1) and Wis. Admin. § PI 8.01(4) authorize school boards to request the Department of Public Instruction to waive any school board or school district requirement in Wis. Stat. chs. 115 to 121 or in the administrative rules promulgated by the Department under the authority of those chapters; and

WHEREAS, Wis. Stat. §118.38(1)(b) requires that before requesting a waiver, a school board shall hold a public hearing in the school district on the request for a waiver of any requirement in Wis. Stat. chs. 115 to 121; and

WHEREAS, Wis. Stat. §§ 120.12(1) and 12.44(2) authorize the Board of Education to have the possession, care, control and management of the property and affairs of the school district; and

WHEREAS, on March 11, 2020, the World Health Organization characterized COVID-19 as a pandemic; and

WHEREAS, on March 12, 2020, pursuant to Wis. Stat. § 323.10, Wisconsin Governor Tony Evers issued Executive Order 72, declaring a public health emergency in all counties of the state as a result of the coronavirus pandemic (COVID-19); and

WHEREAS, on March 13, 2020, Governor Evers issued Emergency Order #1 mandating statewide closure of all public and private schools because of the spreading COVID-19, effective March 18, 2020, at 5:00 pm, through April 6, 2020; and

WHEREAS, on March 17, 2020, Governor Evers issued a further order, Emergency Order #5, extending the closure of all public and private K-12 schools indefinitely, through the duration of the public health emergency, amid the coronavirus pandemic; and

WHEREAS, on March 21, 2020, Governor Evers issued Emergency Order #10 wherein Governor Evers suspended Wis. Admin. § PI 8.01(4)(b)1. to 7. and (c) setting forth the requirements for school districts and the Department of Public Instruction when school districts request waiving hours of instruction requirements, but such order did not suspend the procedural requirements of Wis. Stat. §118.38(1)(b); and

WHEREAS, on March 24, 2020, Governor Evers issued Emergency Order #12, requiring all individuals present within the State of Wisconsin to stay at home or at their place of residence, with limited exceptions, beginning March 25, 2020 and continuing through 8:00 am on April 24, 2020; and further continued the closure of all public and private K-12 schools for pupil instruction and extracurricular activities, except for facilitating distance learning or virtual learnings.

NOW, THEREFORE BE IT RESOLVED, that:

1. On **(INSERT DATE OF HEARING)**, the Board of Education held a public hearing, in satisfaction of Wis. Stat. §118.38(1)(b), concerning requests for waivers of the requirements identified herein; and
2. In compliance with Wis. Stat. §§ 118.38(1) and (1m), and for the reasons set forth herein, the Board of Education hereby directs the District Administrator or his/her designee to apply, on behalf of the Board, to the Office of the Superintendent for Public Instruction (OSPI) for the waiver of the following:

(INSERT A LIST OF THE SCHOOL BOARD OR SCHOOL DISTRICT REQUIREMENTS THAT WERE THE SUBJECT OF THE PUBLIC HEARING AND THAT ARE TO BE SUBMITTED TO DPI AS WAIVER REQUESTS. IDENTIFY SPECIFIC STATUTORY OR REGULATORY SECTIONS TO BE WAIVED, AS APPLICABLE TO EACH ITEM. PURSUANT TO WIS. STAT. §118.38(1m) AND TO THE EXTENT NOT SUFFICIENTLY COVERED BY THE "WHEREAS" STATEMENTS IN THIS RESOLUTION, ALSO INCLUDE ANY STATEMENT OF ADDITIONAL REASON(S) THAT THE BOARD IS REQUESTING EACH LISTED WAIVER.

THE FOLLOWING SECTIONS ARE POSSIBLE EXAMPLES THAT RELATE TO WAIVER REQUESTS THAT DISTRICTS MAY COMMONLY CONSIDER AS A RESULT OF THE COVID-19 PANDEMIC. A DISTRICT SHOULD MODIFY THE EXAMPLES TO THE EXTENT APPROPRIATE TO THE DISTRICT'S LOCAL WAIVER REQUESTS. A DISTRICT MAY INCLUDE IN ITS FINAL RESOLUTION ONLY THE ITEMS ON WHICH THE BOARD HELD A PUBLIC HEARING. IN ADDITION, IF THE BOARD AMENDS THE PROPOSED RESOLUTION AFTER THE PUBLIC HEARING (SUCH AS BY DELETING A PROPOSED WAIVER DURING THE PROCESS OF APPROVING THE FINAL RESOLUTION), THEN MAKE ANY APPROPRIATE EDITS TO THE RESOLUTION THAT REFLECT SUCH BOARD ACTION PRIOR TO HAVING THE BOARD OFFICERS SIGN THE RESOLUTION:

- a. ***Waiver of the requirements of Wis. Stat. § 121.02(1)(f) and the administrative rules promulgated by the department regarding required instructional hours for students for the 2019-2020 school year only due to the COVID-19 public health emergency.***
- b. ***Waiver of the requirements to complete an Educator Effectiveness Cycle for educators in their Summary Year in 2019-20, including waivers of the requirements to meet PI 8.01 and Wis. Stat. §§ 115.415 and 121.02(1)(q) for the 2019-20 school year only due to the COVID-19 public health emergency.***

c. Waiver of the requirement in Wis. Stat. § 118.33(1m)(a) relating to the civic exam requirement as a condition of receiving a high school diploma for the 2019-2020 school year only due to the COVID-19 health emergency and the following additional reasons:

[insert any of the applicable reason(s) from the list provided in the DPI's online waiver request form (i.e., there is unequal and/or irregular access to technology; the district is unable to translate the test to be in the language of student choice; special education and /or English language services are unavailable; and/or the district's inability to administer an online or paper test.)]

BE IT FURTHER RESOLVED that execution of this Resolution is conclusive evidence of the Board of Education's approval of this action and of the authority granted herein at a duly-noticed meeting of the Board held on (INSERT DATE OF BOARD MEETING).

Dated this _____ day of _____, 2020.

(INSERT SCHOOL DISTRICT NAME)

BOARD OF EDUCATION

(INSERT PRESIDENT NAME), Board President

(INSERT CLERK NAME), Board Clerk