

Guidance for Preschool Special Education Waiver Application

The Ohio Department of Children and Youth may grant a co-taught class waiver, public school preschool general education class waiver and/or itinerant intervention specialist caseload waiver for up to one school year.¹ All elements of the request must be met before approval.

The Department will not grant waivers of the standards provided under the Individuals with Disabilities Education Act (IDEA), Ohio Revised Code Chapter 3323 or Ohio Administrative Code 3301-51 if the result is the denial of a free appropriate public education (FAPE) to children with disabilities. Waivers also are *not* permitted for any center-based preschool special education class.²

Waivers shall not replace any Preschool Licensing Rule outlined in Ohio law.³ A waiver request that does not meet Ohio law automatically will be denied. For example, a waiver application that does not meet physical space requirements and/or maximum class sizes will result in automatic waiver application denial.

SPECIFIC GUIDANCE FOR EACH SECTION OF THE WAIVER APPLICATION:

- 1. Applicant and Staff Information:** Provide the applicant name, applicant IRN, building name, preschool IRN, preschool license number, District of Residence IRN for child to be added to classroom/caseload (if the applicant is not the district of residence for the child) and school year of the waiver request. Please also provide information for the district contact:
 - For the applicant: the contact person who will monitor the waiver action plan and ensure the final report is submitted by June 30.
 - If the applicant is not the district of residence for the child being added to the classroom/caseload, then also provide: the contact person at the district of residence who is responsible for preschool special education.
- 2. Prior Waiver:** Please indicate if a prior waiver was granted for a co-taught class, a general education class or itinerant intervention specialist caseload and the year it was granted.
- 3. Waiver Type:**

Check the box for the type of waiver being requested (check only one) and complete the corresponding section:

 - A. Co-taught Class Waiver:**⁴ Exceeding the maximum of eight children with disabilities (children with Individualized Education Programs (IEPs)) enrolled in a co-taught class.

¹ [Ohio Administrative Code 3301-51-11\(A\)](#)

² [Ohio Revised Code 3323.022](#)

³ [Ohio Administrative Code 3301-37](#)

⁴ [Ohio Administrative Code 3301-51-11\(A\)\(1\)\(a\)\(iii\)](#)

Teacher Information:

- List the name of the general education teacher and early childhood intervention specialist who are co-teachers assigned to the classroom.
- For each teacher, list the full-time equivalency (FTE), Ohio State Board of Education educator license number, classroom name/number, class schedule (days of the week the class meets), and number of hours per day for the classroom.
- For the early childhood intervention specialist only — In the Type of Workload table, provide responses accordingly:
 - If the early childhood intervention specialist has an additional class,
 - list the class schedule (days of the week the class meets),
 - list the number of hours per day for the classroom, and
 - list the number of children with disabilities in that class.
 - If the early childhood intervention specialist has an itinerant caseload, list the number of children being served.
 - List the total weekly number of hours spent on planning and collaboration.

Student Information:

Before a waiver can be granted, an applicant must ensure the following Preschool Licensing rules are being met.

- In the first table, check if the classroom meets Preschool Licensing rules for:
 - Physical space requirements
 - Maximum class size
 - Ratio of children with disabilities to children without disabilities
 - Ratio of staff to children
- In the next table, provide the number of children without disabilities and the number of children on behavior plans enrolled in the class.
- In the table titled children with disabilities enrolled in the class, provide the information requested for each child with a disability.
- In the table titled child with disability to be added to class, provide the information requested. This waiver only permits one child to be requested per waiver application.

B. Public School Preschool General Education Class Waiver:⁵ Exceeding the maximum of eight children with disabilities (children with IEPs) enrolled in a public school preschool general education class.

Teacher Information:

- For the general education teacher, list the name, FTE, Ohio State Board of Education educator license number, classroom name/number, class schedule (days of the week the class meets), and number of hours per day for the classroom.
- For any special education staff assigned to the child with disabilities for which the waiver application applies, check yes or no.
 - If yes, the district certifies that none of the special education staff assigned to the child with disabilities for which the waiver application applies will exceed their maximum caseloads/workloads.
 - If no, the district certifies that one or more of the special education staff assigned to the child with disabilities for which the waiver application applies will exceed their maximum caseloads/workloads. An additional waiver application is required for any special education staff exceeding maximum caseload/workload.

⁵ [Rule 3301-51-11\(A\)\(1\)\(g\)\(i\)\(e\)](#)

Student Information:

Before a waiver can be granted, an applicant must ensure the following Preschool Licensing rules are being met.

- In the first table, check if the classroom meets Preschool Licensing rules for:
 - Physical space requirements
 - Maximum class size
 - Ratio of children with disabilities to children without disabilities
 - Ratio of staff to children
- In the next table, provide the number of children without disabilities and the number of children on behavior plans enrolled in the class.
- In the table titled children with disabilities enrolled in the class, provide the information requested for each child with a disability.
- In the table titled child with disability to be added to class, provide the information requested. This waiver only permits one child to be requested per waiver application.

C. **Itinerant Intervention Specialist Caseload Waiver:**⁶ Exceeding the maximum of 20 children with disabilities (children with IEPs) on an itinerant intervention specialist's caseload. An intervention specialist classroom teacher responsible for up to five half-day class sessions (e.g., five morning sessions per week) or up to three full-day class sessions, exceeding the maximum of up to eight additional children on an itinerant caseload. An intervention specialist classroom teacher responsible for six or seven half-day class sessions (e.g., three morning and four afternoon sessions per week), exceeding the maximum of up to four additional children on an itinerant caseload.

Teacher Information:

- For the early childhood intervention specialist list the name, FTE, Ohio State Board of Education educator license number.
- For the early childhood intervention specialist — in the Current Workload table, provide responses accordingly:
 - List the number of minutes per week in other assigned duties.
 - List the number of minutes per week in travel to service locations.
 - List the number of half day class sessions per week responsible as Lead Teacher.
 - List the number of full day class sessions per week responsible as Lead Teacher.

Student Information:

- In the table titled children on current itinerant caseload, provide the information requested for each child with a disability.
- In the table titled child to be added to caseload, provide the information requested. This waiver only permits one child to be requested per waiver application.

4. **Duration:** Indicate specific timeframe for which the waiver is requested. Enter a start date (the date the child with a disability enters the classroom and/or is assigned to the early childhood intervention specialist's caseload) and end date that does not exceed June 30 of the current school year. The applicant (district, educational service center or board of developmental disabilities) must submit the request for a waiver within two weeks of the child's entry into the classroom as a child with a disability and/or assignment to the early childhood intervention specialist's caseload.

⁶ [Rule 3301-51-11\(J\)\(9\)\(g\)](#)

Please note the waiver request cannot be retroactive and, if granted, will be in effect from the date of receipt by the Ohio Department of Children and Youth.

5. Notification:

- A. Parent Notification of Itinerant Intervention Specialist Caseload Waiver:** Parent notification must occur within two weeks of the child’s assignment to the itinerant intervention specialist caseload for which the waiver is requested. Provide the date the notice was sent to all parents of the affected students on the itinerant intervention specialist’s caseload and attach a copy of the notice.

Provide documentation that notice of the waiver request has been provided to the parents of every child affected by the proposed waiver. This parent notice must include:

- Explanation of current situation and why waiver is being requested which includes a description of itinerant’s current caseload including the child to be added and the maximum number allowed by PSE Rule.
- Statement that informs parents about the rule regarding an itinerant caseload waiver (see below) or a statement that the information will be provided upon the parents’ request.
- Itinerant caseload waiver statement: Ohio rule 3301-51-11(J)(9)(g) grants that “the department may grant a waiver (on a case-by-case basis) to the itinerant caseload requirements in paragraphs (J)(9)(c) to (J)(9)(e) in this rule for an intervention specialist to serve additional children with disabilities.”
- Statement that FAPE will continue during the operation of the waiver.
- Statement explaining how and when parents may present any concerns they have about the proposed waiver to the applicant and/or to the district of residence.
- Contact information for the applicant’s and/or district of residence’s staff to whom parents’ concerns should be directed.
- Statement that informs parents that they may present any concerns about the proposed waiver to Preschool Special Education staff at Preschoolspecialeducation@childrenandyouth.ohio.gov or 614-369-3765.

- B. Associated District Notification:** Provide the date the notice of request for a waiver was sent to all affected associated districts (districts with students in the classroom and/or on the early childhood intervention specialist’s caseload), a list of all associated districts and attach a copy of the notice.

- 6. Rationale for the Waiver:** Applicant must complete a rationale for the waiver type being requested.
- Co-Taught class and Public School Preschool General Education Class Provide a response in the table for each direction given.
 - Itinerant Intervention Specialist Caseload: Provide a response in the table for each direction given.

7. **Waiver Action Plan:** Provide an action plan for bringing the applicant into compliance within the school year in which the request was granted. The contact person listed in section one is responsible for implementing the Waiver Action Plan. A final report on the Waiver Action Plan will be required by June 30 of the current school year. See Final Report section below for more information.

The waiver action plan will include a minimum of one goal with two action steps, monitoring data, and implementation timeline for each goal. Follow the directions in the table below for what to include in each section. If additional space is needed to include more than 2 goals, a separate document may be attached.

Goal 1: Fill in the blank in the statement provided in the application. <i>The district will XXXXXXXX in order to be in compliance with the preschool special education rule 3301-51-11.</i>		
Action Steps (must include at least 2 action steps that reflect the following)	Monitoring Data	Implementation Timeline
1. State what immediate step(s) will be taken to address the needs of the current students and student being added to ensure that there are no adverse impacts. 2. What step(s) will be taken during the current school year to address the goal (to prevent the need for a waiver in the future)	For each action step: <ul style="list-style-type: none"> state what data will be collected to reflect that the action step was accomplished and/or had an impact AND when data will be collected 	State when each action step will begin and end.

8. **Assurances:** If the applicant is a district, then the district superintendent signs to the assurances in the district assurances section of the application. If the applicant is an educational service center or county board of developmental disabilities, then the ESC or DD superintendent signs to the assurances in the ESC/DD section of the application. Also provide the date the superintendent signed.

Submission: Return completed Waiver Application and required documentation by email to: preschoolspecialeducation@childrenandyouth.ohio.gov with the subject line: WAIVER.

Waiver Status Notification: The Ohio Department of Children and Youth will notify the district, educational service center or board of developmental disabilities of its decision. An email regarding the status of the Waiver Application will be sent to the contact person for the district, educational service center or board of developmental disabilities within 14 business days of receiving the application.

Requirements for Waivers that are Not Approved: Upon receipt of non-approval notification, within 20 school days, the applicant must: Provide documentation verifying compliance with rules regarding no more than eight children with disabilities in a co-taught or public school preschool general education class or with rules regarding itinerant intervention specialist caseload.

Should an applicant fail to complete the above requirements within the 20 school days it may result in the following:

- No future waivers considered for the applicant for the following school year;
- The district’s level of risk may be elevated the following year as a result of not completing the required waiver activities;
- The district may be selected for either a desk or onsite Preschool IDEA Monitoring review; and/or
- The district may have access to funds reduced or terminated.

If you have questions, please call (614) 369-3765 or send an e-mail to preschoolspecialeducation@childrenandyouth.ohio.gov.

Final Report for Waivers that are Approved

A final report is due by June 30 of the current school year. The district, educational service center or board of developmental disabilities must submit the following as the final report:

- Part 1 of the application for verification purposes;
- Part 7: Waiver Action Plan – Using the waiver action plan from the application that was ODE approved, provide the details that indicate the action plan was completed. The completed action plan must include:

Goal 1: The goal that is the same as in the original action plan		
Action Steps	Monitoring Data	Implementation Timeline
The specific Action Steps that are the same as in original action plan	The data that aligns with the Monitoring Data section of the original action plan that was collected and the date the data was collected.	The timelines for each Action Step that reflect actual dates Action Steps started and were completed.

When providing supporting evidence for a final waiver report or not approved waiver, do NOT provide personally (student) identifiable information. Personally identifiable means information that contains:

- Name of the child, the child’s parent or other family member;
- The address of the child;
- A personal identifier, such as the child’s social security number; or
- A list of personal characteristics or other information that would make it possible to identify the child with reasonable certainty

Monitoring

Further review may be conducted when the Ohio Department of Children and Youth deems appropriate. Further review may include, but is not limited to, the following: a review of documentation pertaining to student progress; review of documentation pertaining to implementation of the required plan to remedy the need for the waiver; or an on-site visit to inspect the appropriateness of services or facilities.