

Guidance for Preschool Special Education Waiver Application

The Ohio Department of Education 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. District and Staff Information: Provide the district name, district IRN, educational service center/board of developmental disabilities name (if applicable), building name, preschool IRN, school year of the waiver request and preschool license number. Please also provide the contact person who will monitor the waiver action plan and ensure the final report is submitted by June 30.

2. Prior Waiver: Please indicate if a prior waiver was granted from the Ohio Department of Education and the year it was granted.

3. Waiver Type:

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

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.

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 Department of Education educator license number, classroom name/number, class schedule (days of the week the class meets), full-day or half-day class and number of hours per day.
- 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 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:

- In the first table, provide the number of children without disabilities and the number of children on behavior plans enrolled in the 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\(A\)\(1\)\(a\)\(iii\)](#)

- 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.

a) **Public School Preschool General Education Class Waiver:**⁵ Exceeding the maximum of six 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 Department of Education educator license number, classroom name/number, class schedule (days of the week the class meets), full-day or half-day class, number of hours per day.
- For any special education staff assigned to the child with disabilities for which the waiver application applies, circle 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.

Student Information:

- 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) **Itinerant Intervention Specialist Caseload Waiver:**⁶ Exceeding the maximum of 20 children with disabilities (children with IEPs) on an itinerant intervention specialist's caseload.

Teacher Information:

- For the early childhood intervention specialist list the name, FTE, Ohio Department 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.

Student Information:

- In the table titled children on current 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 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 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 and/or assignment to the early childhood intervention specialist's caseload.

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

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 Education.

5. **Parent Notification:** Provide the date the notice was sent to all parents of the affected students (in the classroom and/or the early childhood intervention specialist’s caseload) and attach a copy of the notice. Please enter the date of the notice in the box that was provided. Please see the Waiver Application Checklist for parent notice requirements.
6. **Rationale for the Waiver:** Describe the reasons why the waiver is being requested, including steps taken to avoid the necessity of a waiver.
 - a. What did the district/IEP team consider before applying for a waiver? (Itemize the steps taken explaining why the district has been unable to resolve the issue.)
 - b. Explain why this placement is appropriate for the impacted students, including rationale for why this is the least restrictive environment (LRE) for the child/children.
7. **Waiver Action Plan:** Provide an action plan and timeline for bringing the district into compliance within the school year and no later than June 30 of the school year in which the request was granted. The waiver action plan should outline action steps the district will take, as well as an implementation timeline and monitoring data. In-depth action planning will include plans and processes districts currently are taking to meet the needs of every student and steps the district will take to prevent the need for a waiver in the future. This may include additional supplies, staff, space or more as needed. A final report on the Waiver Action Plan will be required 30 days prior to June 30 of the current school year. See Final Report section below for more information.

The contact person listed in section one is responsible for implementing the Waiver Action Plan.

Example of Completed Waiver Action Plan

Waiver Action Plan		
Plan for meeting Public School Preschool General Education Class 3301-51-11(A)(1)(g)(i)(e): A plan and timeline must be submitted to bring the district, board of developmental disabilities school or educational service center classroom into compliance no later than June 30 of the current school year.		
Goal 1: Reduce the number of preschool children with disabilities within the designated classroom by June 2, 2022.		
Action Steps	Monitoring Data	Implementation Timeline
<ol style="list-style-type: none"> 1. Currently, an additional teacher assistant/paraprofessional has been added to the classroom during the entire class time. 2. To avoid the request for a future waiver, the district will establish relationships with three community preschool programs to serve children with disabilities. 	<ol style="list-style-type: none"> 1. Classroom Environment/Behavioral Observational data: There have been no disruptions to the classroom routines and/or availability of space or supplies with the addition of the student. 2. Number of visits by district staff (itinerant teacher, special education director or others) to each site and number of trainings provided/coordinated. 	<ol style="list-style-type: none"> 1. Data collection to continue from the date the child entered with the addition of the teacher assistant/paraprofessional and reviewed monthly until the end of school year. 2. To begin collaboration during the current school year to have a memorandum of understanding and/or agreement established and in place by next school year.

8. Assurances: The district superintendent signs to the assurances in the application. In addition, in cases when an educational service center or board of developmental disabilities is providing support for the district, the appropriate signatures from those agencies also are required.

Waiver Timeline/Checklist: Use the information in the table to make sure all required district, educational service center or board of developmental disabilities actions are completed in the required timeframe and to track what actions will be accomplished by Ohio Department of Education.

Incomplete applications will be returned.

Submission: Return completed Waiver Application and parent letter by email to preschoolspecialeducation@education.ohio.gov with the subject line: WAIVER.

Waiver Status Notification: The Ohio Department of Education 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: If the district is not granted the waiver, the district must:

- Provide documentation verifying compliance.
OR
- Provide a corrective action plan as to how the district, educational service center or board of developmental disabilities will come into compliance with the date that corrective action must be completed. Should a district or other provider fail to meet the timeline in its corrective action plan, the Ohio Department of Education may delay and ultimately move to withhold applicable state and/or federal funds.

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

Monitoring

Further review may be conducted when the Ohio Department of Education 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.

Final Report

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

- Page 1 of the application packet for verification purposes;
- Part 7: Waiver Action Plan - Provide the completed action plan that reflects the specific actions taken, data collected and timelines met for bringing the district into compliance. In addition, include a summary of any impact on students and/or staff affected by the waiver.