



BILL LEE
GOVERNOR

STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
NINTH FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

PENNY SCHWINN
COMMISSIONER

Via Email and USPS

May 9, 2019

Gary Lilly, Ed.D., Director of Schools
Bristol Tennessee City Schools
615 Martin Luther King Jr. Blvd.
Bristol, TN 37620

Re: Waiver Request of T.C.A. §49-6-1021 (e)

Dear Director Lilly:

I am in receipt of your April 23, 2019 letter requesting a waiver for Bristol Tennessee City Schools of T.C.A. § 49-6-1021(e), the Tom Cronan Physical Education Act, requiring students to participate in sixty (60) minutes of physical education classes two (2) times per week to be taught by a licensed teacher with an endorsement in physical education or a specialist in physical education.

According to your letter, complying with the requirements of this statute would hinder your school district's ability to comply with its mission statement.

On May 2, 2019, the Tennessee General Assembly passed legislation to delay implementation of the Tom Cronan Physical Education Act until the 2020-2021 school year. The following day, the Tennessee Department of Education (TDOE) disseminated the following update to coordinated school health coordinators:

"Legislation passed by the General Assembly this week delays implementation of the Tom Cronan Physical Education Act until the 2020-2021 school year. This was done in an effort to give districts additional planning and implementation time. We encourage districts, that are able, to go ahead and implement for the 2019-2020 school year."

Given the delayed implementation of the Tom Cronan Physical Education Act, your district is not required to alter scheduling to accommodate sixty (60) minutes of physical activity for the 2019-2020 school year. However, all school districts are encouraged to do so if they already have the necessary resources.

In light of this, a waiver of the Tom Cronan Physical Education Act is not necessary for the 2019-2020 school year. The TDOE Office of Coordinated School Health is available to provide assistance to districts that need additional support in implementation of this law. Please contact Heather Piergies, Physical Education/Physical Activity Specialist, at Heather.Piergies@tn.gov if you have any questions about this.

Sincerely,



Dr. Penny Schwinn
Commissioner



615 Martin Luther King Jr. Blvd • Bristol, TN 37620
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April 23, 2019

Dr. Penny Schwinn
Commissioner of Education
Tennessee Department of Education
710 James Robertson Parkway
Nashville, TN 37243

Dear Commissioner Schwinn,

The enclosed Public Chapter references your power to waive statutes that inhibit or hinder an LEA's ability to meet its goals or comply with its mission, as granted by Tennessee Code Annotated 49-1-201(d).

The requirements of the Tom Cronan Physical Education Act [TCA 49-6-1021(e), ver. 2, effective July 1, 2019] will definitely hinder our ability to meet our goals and comply with our mission. While it would be possible to accommodate a total of 60 minutes of physical education classes twice each week for schools with fewer grades spans or classes, it simply is not possible with our elementary school configuration without dramatic academic sacrifices.

Our elementary schools include grades Pre-K through sixth. We have three to four classes in each grade level. The current 45-minute special area class schedule will be impossible to follow with the new law. One P.E. teacher cannot serve three to four classes per grade level twice in a week over the course of five days. This means that the special area block would have to become a one-hour block so that P.E. could double with another special area teacher. In such a scenario, the P.E. teacher would occasionally have to have a scheduled lunch block at inconvenient times, such as 8 a.m. or 2:30 p.m., due to schedule rotation.

Our current 45-minute special area class schedule allows us to offer grade-level teachers common planning times for PLCs, RTI and data meetings, and IEP meetings, all of which are imperative if we are to accomplish our academic goals with students. The existing RTI block that is built into our schedule will not fit into a master schedule with one-hour special area blocks. This poses a problem for students who must have Tier II or III intervention, which is an additional 30 to 45 minutes each day. Our special area teachers are an integral piece to the daily RTI block. To illustrate the issues that I have described, I have enclosed a typical master schedule from one of our elementary schools.

I was hopeful that bills proposed this legislative session (HB1244/SB330) to reduce the requirement from 60 minutes to 45 minutes would fix the issue for us. While it passed the House, it unfortunately failed in the Senate Education Committee, which is why I am seeking your support and assistance.

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Commissioner Penny Schwinn

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April 23, 2019

From what I understand, the Tennessee Association for Health, Physical Education, Recreation, and Dance (TAHPERD) suggested to legislators that scheduling the additional time should be no problem and even offered assistance to districts that needed it. For what it's worth, one of our elementary principals and I talked at length to one of the TAHPERD officers, Ms. Shirley Holt-Hale. Rather than offering a viable solution, once she fully understood the extent of the scheduling difficulties, she simply stated that the state's RTI requirements were too much and needed to be rolled-back. We beg to differ as we are seeing children make significant academic progress through RTI programming.

Please let me know if you are willing to waive the requirement for us to provide two physical education classes a week for a total of 60 minutes. I spoke to Assistant Commissioner for Policy and Legislation Elizabeth Fiveash about the aforementioned legislation toward the end of February. Elizabeth relayed that the department would not oppose a 45-minute weekly block as long as it was under the direction of a certified P.E. teacher. Should you grant this requested waiver, we will definitely meet the requirement to provide 45 minutes of weekly P.E. instruction by a certified P.E. teacher.

Thank you for your consideration! Should you have additional questions about this request, do not hesitate to let me know.

Sincerely,



Gary Lilly, Ed.D.
Director of Schools

Enclosures