



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 Electronic Mail

February 16, 2023

Dr. Tim Parrott
Anderson County Schools
1010 South Main Street
Clinton, TN 37716

Re: Waiver for English as a Second Language (ESL) Programs

Dear Director Parrott:

I am in receipt of your February 13, 2023 waiver request of State Board of Education Rule 0520-01-19-.03 requiring students identified for ESL services via a Tennessee Department of Education-approved English Language Proficiency screener to receive a minimum of one (1) hour each day from a teacher who holds an ESL endorsement.

According to your request, you are seeking a waiver of this rule to better accommodate the affected students' IEPs and to better provide them with individualized services based on their needs.

Tenn. Code Ann. § 49-1-201(d) grants the commissioner the authority to "waive any state board rule or statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission." Therefore, your request is hereby granted for the remainder of the 2022-23 school year.

Please do not hesitate to contact me if you have further questions.

Sincerely,

Dr. Penny Schwinn
Commissioner



Tennessee Department of Education – Office of The Commissioner

710 James Robertson Parkway - Andrew Johnson Tower, 9th Floor - Nashville, TN 37243

Local Education Agency Waiver Request

Pursuant to Tennessee Code Annotated § 49-1-201(d), upon application by the local education agency for one (1) or more of its schools, the commissioner of education may waive any state board rule or statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission. Please submit completed forms to Commissioner.Schwinn@tn.gov. Following review by the commissioner, the district will be notified in writing if the waiver request is approved or denied. Unless otherwise stated, all waivers granted by the commissioner shall be granted for one year terms.

Waivers may **not** be granted by the commissioner for regulatory or statutory requirements related to:

- (A) Federal and state civil rights;
- (B) Federal, state and local health and safety;
- (C) Federal and state public records;
- (D) Immunizations;
- (E) Possession of weapons on school grounds;
- (F) Background checks and fingerprinting of personnel;
- (G) Federal and state special education services;
- (H) Student due process;
- (I) Parental rights;
- (J) Federal and state student assessment and accountability;
- (K) Open meetings;
- (L) Educators' due process rights;
- (M) Reductions in teachers' salaries;
- (N) Employee rights, salaries and benefits; and
- (O) Licensure of employees.

Local Education Agency:

Anderson County Schools

School Information (if applicable):

School Name:

Street:

City: _____ Zip Code: _____

The district will write a procedure for future cases in which students with disabilities may have need of individualized duration of services for the best interest of the student.

All students are monitored each 4.5 weeks using our Ellevation progress monitoring tool.

This is a dynamic process and we look to increase service-delivery time based on the input of the SPED teacher for our students with unique learning needs and we are seeing success. We hope that we can increase time next school year as students are able to sustain increased time in learning activities and/or meet graduation requirements.

We are using ATELLA resources to assist in our collaboration with SPED educators in the CDC classrooms by developing learning profiles in order to meet the unique learning needs of our dually-identified students.

Expected duration of the condition necessitating this waiver request:

We are expecting this to be necessary for the remainder of this school year in order to provide services that are in the best interest of the students and according to the capacity of the students to receive direct ESL services

Director of Schools (Signature)



Print Name Dr. Tim Perrott

Date 2/13/2023

Please list the statute(s) and/or state board rule(s) for which waiver is being requested:

RULES OF THE STATE BOARD OF EDUCATION CHAPTER 0520-01-19 ENGLISH AS A SECOND LANGUAGE PROGRAMS

0520-01-19-.03 IDENTIFICATION, SCREENING, AND SERVICE DELIVERY

Explanation of how the statute(s) and/or state board rule(s) inhibits or hinders the local education agency's ability to meet its goals or comply with its mission:

We consulted Jan Lanier and Debra Franz in August of 2021 regarding service delivery requirements for dually-identified students who, due to special circumstances and student need, need individualized service minutes, and they directed us to make this decision with the IEP team and document this in the IEP. We have followed that directive and staffing decisions for the 2022-2023 school year were made based on that information.

List of students affected:

- SSID 4023634- Student is unable to attend the ELD course due to the amount of credits needed to recover for graduation; student is completing these with intensive support from the SPED teacher and is being monitored with both the Ellevation Progress Monitoring Tool and the Pearson Test of English Language Learning (TELL). The student has daily access to the ESL teacher for additional support during the Flex Block; however, this is the time that she is working in a small group on her credit recovery.
- SSID 3702883- Student is in a CDC classroom and has an intellectual disability with low-cognitive functioning; the ESL teacher provides 20 minutes of daily ELD services; student is monitored with the Ellevation Progress Monitoring Tool; since he is assessed with the Alt ACCESS , the TELL progress-monitoring assessment is not appropriate for this student
- SSID 4906433- Student has autism and is in the CDC classroom; the IEP team determined that the student is best serviced with one session of ELD per week for 15 minutes; student has been able to work up to this amount for an activity and this will be extended as the student continues to progress.
- SSID 4706851- Student is only in the general education classroom for science and social studies; student is in the CDC classroom for math and ELA. The ESL teacher pushes into the general education classroom for math and ELA. Since this student just moved from waiver to direct services, this has posed a challenge to be able to provide the full 60 minutes. Currently, the ESL teacher works with him in a small ELD group for 30 minutes each day.

Please note that all other dually-identified English Learners are receiving the required amount of English Language Development. These four students are special cases.

All decisions about service hours provided to the students have been made in an IEP committee composed of the ESL teacher, parent(s), special education team, and school administrator, with guidance from J. Lanier and D. Franz in August of 2021. These decisions have been made in accordance with the best interest of the students, as expressed by the parents and additional members of the IEP team.