



**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

March 29, 2023

Gary Lilly, Director of Schools  
Collierville City Schools  
145 W. Poplar Avenue  
Collierville, TN 38017

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

Dear Director Lilly:

I am in receipt of your March 21, 2023 waiver request of State Board of Education Rule 0520-01-19 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, current middle school ESL students in the district are scheduled to receive one (1) hour of ESL services, however due to the way scheduling at the school is structured, these students are only able to receive fifty (50) minutes of ESL instruction. The current scheduling system does not allow additional time for transition periods.

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.” On the condition that no middle school student receives fewer than fifty (50) minutes of ESL instruction, 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, 9<sup>th</sup> 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](mailto: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:**

Collierville Schools

---

**School Information (if applicable):**

School Name:

---

Street:

145 W. Poplar

---

City: Collierville, TN

Zip Code: 38017

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

SBE 0520-19-01 ESL Service Schedules

**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:**

Due to 50-minute scheduled class periods, current middle school ESL students only receive 50 minutes of ESL pull-out instruction daily. ESL teachers can push-in, if needed, to the students' core content classes to provide additional support. Because our EIS system uses 15-minute increments to create courses at the elementary school level, current elementary school ESL students receive 60-minutes of pull-out instruction which includes transition time. The system prohibits adding additional transition time to the to current student schedules.

**Expected duration of the condition necessitating this waiver request:**

We are working with other districts that utilize this same EIS system to determine how to effectively schedule students for the upcoming year to meet SBE 0520-19-01. For the 2023/2024 school year, the middle school schedules will no longer be an issue since the 60-minute rule will no longer apply but will be changed to meet the "one full-class period" rule of at least 45 minutes.

**Director of Schools** (Signature)

Gary Lilly

Print Name Gary Lilly

Date 3/21/23

Collierville, TN