



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 20, 2023

Dr. David L. Snowden, Director of Schools
Franklin Special School District
507 Highway 96 West
Waverly, TN 37185

Re: Waiver for English as a Second Language (ESL) Programs at Freedom Middle School

Dear Director Snowden:

I am in receipt of your March 1, 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, some students at Freedom Middle School receive less than one (1) hour of ESL services due to the way scheduling at the school is structured.

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 student receives fewer than forty-five (45) minutes of ESL services, 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



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:

Franklin Special School District

School Information (if applicable):

School Name: Freedom Middle School

Street: 750 New Highway 96 West

City: Franklin Zip Code: 37064

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

Under TN SBE Rule 0520-01-19, students identified for ESL service via an English Language Proficiency screener shall receive a minimum of one (1) hour of Direct ESL Service each school day from a teacher who holds an ESL endorsement, until the student achieves a sufficient score on a summative assessment pursuant to TN SBE Rule 0520-01-19-08. Further, for students who score 3.5 or higher on the reading, writing, and either speaking or listening domains, LEAs may tailor the services provided to those students, including providing less than one (1) hour of Direct ESL Service per day based on their ILP.

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:

There are currently (5) EL students receiving five minutes less than the required sixty minutes of direct EL services due to a fifty-five minute academic period. There are also (3) dual-certified students who, as a result of their intensive needs served under an IEP, receive forty-five minutes of direct EL services therefore fifteen minutes less than the requirement. There is (1) student who receives forty-five minutes of direct EL services. He is an honors student and parents have requested he remain in honors classes. This has created a scheduling issue resulting in forty-five minutes rather than sixty minutes of direct EL services.

Expected duration of the condition necessitating this waiver request:

We respectfully request this waiver for March, April and May, the remainder of the 2022-2023 academic year, at which time EL and Special Education Teachers will collaborate to insure compliance with TN SBE Rule 0520-01-19.

Director of Schools (Signature)



Print Name Dr. David L. Snowden

Date 3/1/2023