



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. Justin Robertson, Director of Schools
Hamilton County Schools
3074 Hickory Valley Road
Chattanooga, TN 37421-1255

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

Dear Director Robertson:

I am in receipt of your January 25, 2023 waiver request of State Board of Education Rule 0520-01-19-.03(6) 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 students at one middle school within the district who receive direct ESL services. You have indicated that a waiver of this rule will allow for greater flexibility to meet these students' individual goals.

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:

Hamilton County Schools

School Information (if applicable):

School Name:
Hamilton County Schools

Street:
3074 Hickory Valley Rd.

City: Chattanooga

Zip Code: 37421

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

Chapter 0520-01-19 English as a Second Language Program-minimum of one (1) hour of Direct ESL Service

EL students identified for ESL service via a Department of Education-approved English Language Proficiency screener described in this rule 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 State Board rule 0520-01-19-.06 to be exited from Direct or Indirect ESL Service or achieves a sufficient score on a summative assessment to have Direct or Indirect ESL Services modified by the ILP Team pursuant to paragraph (8) of this rule.

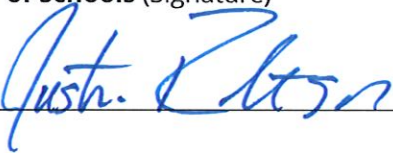
Explanation of how the statute(s) and/or state board rule(s) inhibits or hinders the local education agency's ability to meet its goals or comply with its mission:

In order to ensure that all students have the opportunity to thrive and reach a future without limits, we are requesting a waiver regarding the minimum of one (1) hour of Direct ESL Service. This waiver request is for one (1) middle school and for students requiring Intensive Direct Support where there is need for specialized instruction and related services. We have one middle school providing eighty (80) minutes of Direct ESL Services four days per week and forty (40) minutes one day per week, for a total of three hundred and twenty (320) minutes per week. The requirement of one (1) hour of Direct ESL Service is restrictive for this middle school, as students participate in career exploration during the day the students receive 40 minutes of direct ESL services. The students are engaged in learning technical language with peers through direct application. Regarding the students requiring Intensive Direct Support, in conjunction with the parent, the IEP team, and qualified school professionals, the consultative services are designed and documented to meet the individual goals of the student, as noted in the IEP. The one (1) hour of daily Direct ESL Service does not allow for the flexibility that is required to meet the student's individual goals.

Expected duration of the condition necessitating this waiver request:

The expected duration of the condition necessitating this waiver request is through the end of the 2022-2023 school year.

Director of Schools (Signature)



Print Name Dr. Justin Robertson

Date 01/25/2023