



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

August 23, 2022

Richard T. Rye, Director of Schools
Humphreys County Schools
2443 Hwy 70 E
Waverly, TN 37185

Re: Waiver Requests for the 2022-23 School Year

Dear Director Rye:

I am in receipt of your July 15, 2022 LEA Waiver Request Form requesting a waiver of the following for Humphreys County Schools as a result of the flooding that occurred in the district on August 21, 2021:

- Maximum transit time requirements, found in Tenn. Code Ann. § 49-2-2105;
- Average class size limits, found in Tenn. Code Ann. § 49-1-104 and State Board of Education Rule 0520-01-02-.31(4)(a) and (b);
- Duty free lunch and planning time, found in Tenn. Code Ann. § 49-1-302(e)(1) and State Board of Education Rule 0520-01-02-.31(6);
- Teacher evaluation timelines, found in State Board of Education Rule 0520-02-01-.02(3);
- Physical activity requirements, found in Tenn. Code Ann. § 49-6-1021; and
- Remote instruction option allowing up to 2 days each semester of the 180 days of required instruction, found in Tenn. Code Ann. § 49-6-3004(i).

Your waiver request for maximum transit time is granted for the 2022-23 school year upon the condition that no student is in transit for longer than 110 minutes.

Regarding your request for class size limits, the commissioner's waiver authority under Tenn. Code Ann. § 49-1-201(d) is limited by Tenn. Code Ann. § 49-1-104(a), which states that "neither the commissioner nor the state board of education shall grant waivers from the maximum class sizes established in this section." With the understanding that none of the classes in Humphreys County Schools will exceed the maximum number of students per class specified in the above referenced statute, your request for a waiver of the class size average is granted for the 2022-23 school year.

In addition, your requests regarding duty free planning time and lunch are approved for the 2022-23 school year unless an individual teacher requests to be accommodated.

Your requests regarding teacher evaluation timelines are also approved for the 2022-23 school year unless an individual teacher requests any additional observations.

Finally, you requested a waiver of the school term requirement in Tenn. Code Ann. § 49-6-3004(i) that allows districts to provide up to two (2) days each semester of the required one hundred eighty (180) days of classroom instruction via remote instruction for certain circumstances. This law authorizes a maximum of four (4) days of remote learning each school year. You are approved to use all four (4) days provided in the law at the end of the first semester for the transition to the new locations as provided in your letter.

Please do not hesitate to call 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:

Humphreys Co. Board of Education

School Information (if applicable):

School Name: N/A

Street: 2443 HWY 70 E

City: Waverly, TN Zip Code: 37185

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

See attached

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:

See attached

Expected duration of the condition necessitating this waiver request:

2022-23 school year

Director of Schools (Signature)

_____

Print Name Richard T Rye

Date 7-15-22

Humphreys County Schools Waiver Requests

July 15, 2022

Rational for requesting waivers

On August 21, 2021 a catastrophic flood event occurred impacting Humphreys County. While the most of the county was affected in some way, the majority of the damage and loss of life occurred in Waverly. Three of the district's schools are located in Waverly: Waverly Elementary School serving grades PreK-3, Waverly Junior High School serving grades 4 – 8, and Waverly Central High School serving grades 9-12. Waverly Elementary School and Waverly Junior High School are located yards from the creek which was the cause of the flooding and sustained major damage. It is our belief that we cannot return students or staff to these buildings. Not returning to these facilities will displace approximately 1,100 students and staff. Waverly Central High School, located downstream on the western edge of town on higher ground, did not suffer significant damage and will be returned to service in a relatively short amount of time. Relocating the students and staff of the two schools within the district, while possible, will place a significant burden on personnel and infrastructure. The Humphreys County Board of Education requests waivers for one year for the statutes, policies, rules and regulations listed below.

With much assistance from the Tennessee Department of Education and other state agencies, a structure has been acquired by the Humphreys County Board of Education to temporarily house the displaced students and staff from Waverly Elementary and Waverly Junior High Schools until land can be obtained and permanent facilities can be designed and constructed. The goal has been to have the temporary school facility finished by the start date of the new school term on August 3, 2022. The temporary structure is extremely well built but, due to its age, had to be stripped back to a shell, with all mechanicals to be replaced. Because of supply chain lead times for such components as electrical switching equipment, steel and brick, we will not meet our August 3rd goal. Labor shortages and high demand for such trades as plumbing contractors have also caused delays to the renovation project.

TCA 49-6-2105 Maximum time in transit

Efforts will be made to comply with the 1.5-hour maximum transit time. The road conditions in the county and the routing of students to temporary locations may make it difficult in some instances to comply with TCA 49-6-2105. Humphreys County Board of Education requests a one-year waiver for this statute.

TRR/MS 0520-01-02-.31(4)(a)(b) Organization and Administration of Schools – Average/Maximum Class Size

Efforts will be made to stay within the average and maximum class sizes established by rule of the State Board of Education. TCA 49-1-104(f) allows the commissioner of education to grant a waiver for the enrollment of displaced students in the event of a natural disaster. The Humphreys County Board of Education requests a waiver of the average and maximum class size limits found in TRR/MS 0520-01-02-.31.

TRR/MS-0520-01-02-.31(6) Organization and Administration of Schools – Planning Time/Duty Free Lunch

Relocating students from affected facilities to other buildings in the district will cause situations where teachers may not be able to have duty free lunch or the required planning time. Students will most likely need to eat in classrooms and will need to be supervised. The Humphreys County Board of Education requests a waiver of the duty-free planning and lunch period requirements found in TRR/MS-0520-01-02-.31(6).

TRR/MS-0520-02-01-.02(3) Evaluation Timeline

Delay of resumption of school and relocation of students throughout the county has compressed the time available for teacher observations. The Humphreys County Board of Education requests a waiver of the evaluation timeline established by the Tennessee Department of Education under rule 0520-02-02-.02(3). In many circumstances, school leaders may not be able to conduct half of the evaluations first semester and half second. The district requests the flexibility to conduct more than half of the evaluations second semester.

TCA 49-6-1021 Opportunities for physical activity

All schools will create schedules to meet the minimum physical activity and physical education requirements found in 49-6-1021 to the fullest extent possible. With schools split over multiple locations and in facilities without adequate indoor exercise spaces, meeting these requirements at all times during the term of the waiver request may not be possible. The Humphreys County Board of Education requests a waiver of the minimum physical activity and physical education requirements found in 49-6-1021.

TCA 49-6-3004

The General Assembly, at the last session, amended 49-6-3004 by adding a new subsection which includes a provision for an LEA to provide up to 2 days each semester of the required 180 days of instruction via remote instruction. The Humphreys County Board of Education requests permission to provide 5 days of remote instruction at the end of the first semester to provide time to transition students and staff from the various buildings throughout the district to the temporary location where they will be housed for the next few years.



Richard T. Rye
Director of Schools
Humphreys Co. Board of Education

7-15-22
Date