



BILL LEE
GOVERNOR

STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
NINTH FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

LIZZETTE REYNOLDS
COMMISSIONER

Via Electronic Mail

August 4, 2025

Dr. James Sullivan, Director of Schools
Rutherford County Schools
2240 Southpark Blvd.
Murfreesboro, TN 37128
sullivanja@rcschools.net

Dear Director Sullivan:

I am in receipt of your waiver request of State Board of Education Rule 0520-01-19 as it relates to English as a Second Language (ESL) program service delivery. You have requested to tailor services provided to students dually served through special education and ESL to meet the greatest needs of individual students.

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 local education agency’s ability to meet its goals or comply with its mission.” On the condition that Rutherford County Schools comply with the provisions of State Board of Education Rule 0520-01-19 by implementing the monitoring steps required under the Rule as well as implementing the additional action steps outlined in your waiver request, your request is hereby granted for the remainder of the 2025-26 school year.

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

Sincerely,

Lizzette Reynolds
Commissioner

General Waiver Request

Local education agencies (LEAs) and public charter schools should review the Local Education Agency and Public Charter School Waiver Guidance posted on the [department's website](#) before submitting this request. The guidance outlines what can and cannot be waived, as well as the information required for commonly requested waivers.

To apply for a waiver, email the completed form to Education.Waivers@tn.gov. Following review by the commissioner, the requestor 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.

If this is a waiver request for a public charter school, please attach documentation that confirms the public charter school first submitted this wavier to its LEA authorizer and the LEA authorized denied the request.

Rutherford County Schools

Local Education Agency/Public Charter School

N/A

School Name, if applicable

N/A

School Address, if applicable

sullivanja@rcschools.net

Director of Schools/Head of School Email Address

Dr. Jimmy Sullivan

Director of Schools/Head of School Printed Name

 7-23-25
Director of Schools/Head of School Signature & Date



1. Statute(s) or State Board of Education (SBE) rule(s) for which a 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
2. Expected duration of the condition necessitating this request. Please note that the department will not grant waivers beyond one year.
2025-2026 school year
3. Explanation of how the statute(s) or SBE rule(s) inhibits or hinders the LEA's/public charter school's ability to meet its goals or comply with its mission (attach additional pages if more space is needed).
Attached

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:

Due to the limited time in the school day for students dually served through Special Education and ESL to meet the required minutes of both programs, a waiver is being requested for Rutherford County Schools to be allowed to tailor the services provided to those students, including providing less than one (1) hour of direct ESL Service per day. The request is for the schools to have the ability to tailor ESL service times to meet the greatest needs of individual students.

Here are three examples of students affected by required special education and ESL service time:

- A third-grade special education and ESL student has the following required minutes stated in his IEP:
 - 60 minutes SPED reading intervention
 - 30 minutes inclusion reading
 - 60 minutes SPED math intervention
 - 30 minutes inclusion math
 - Occupation therapy 3 times per month for 30 minutes
 - Speech therapy 10 times per month for 10 minutes

As an ESL student with a composite score of 1.9, he is also required to receive 60 minutes of ESL instruction. The request is for his ESL time to be tailored to allow the required special education service minutes as stated in his IEP take precedence as that is the greatest need for the student. He will be quarterly monitored through ESL.

- A 7th grade special education and ESL student is required to have one class period of math intervention and one class period of reading intervention. The math intervention is completed during his exploratory period, and the reading intervention is completed during the school-wide intervention time. The request is for his ESL time to be tailored to allow the ESL teacher to pull the student from his ELA class for ESL services when it does not interfere with tier one instruction thus not meeting the daily class period of service requirement.
- A 10th grade student who is intellectually disabled and qualifies for ESL services spends his day in a special education setting with additional vision and hearing services in the special education classroom. He cannot engage in long periods of instruction due to his disabilities. Some of his IEP goals include:
 - measure calendar time by days, weeks, months, and years with 80% accuracy on 4 or more consecutive data collection entries

- answer “what”, “who” and “where” questions in American Sign Language with 80% accuracy on 4/5 trials as evidenced by a data collection tool
- correctly rote count to 30 with 1 or fewer prompts in 4 consecutive data collection entries.

The request is for his ESL time to be tailored to allow for an appropriate number of ESL instructional minutes due to his severe disabilities.

If a dual served student receives tailored services, they must be a student with an IEP and qualify for ESL. The parent, special education case manager, ESL teacher, and LEA representative must make a collaborative decision about the number of service minutes that best meets the needs of the individual student. If the dual served students' ESL minutes are allowed to be tailored, then the minutes of ESL service may be under the required 60 minutes for elementary students or the 45-minute class period for middle or high school students.

Dual served students will continue to be monitored quarterly as required by ESL rule with the ability to increase ESL service time if the quarterly monitoring shows a need.

The goal is to maximize instructional time for students with unique learning needs such as students who qualify for both special education and ESL. With the ability to tailor ESL service times for these specific students, the LEA can focus on meeting their individual needs.

Expected duration of the condition necessitating this waiver request:

The remainder of the 2025 - 2026 school year