



**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**

May 2, 2023

Dr. John Combs, Director of Schools  
Tipton County Schools  
1580 Highway 51 South  
Covington, TN 38019

Re: Waiver Requests for the 2022-23 School Year Resulting from the March 31, 2023 Tornado

Dear Director Combs:

I am in receipt of your April 26, 2023 LEA Waiver Request requesting a waiver of the following for Tipton County Schools as a result of a tornado that occurred in the county on March 31, 2023:

- Class size limits, found in Tenn. Code Ann. § 49-1-104 and State Board of Education Rule 0520-01-02-.31(4);
- Teacher and administrator evaluation requirements found in Tenn. Code Ann. § 49-1-302(d)(2), Tenn. Code Ann. § 49-6-105, State Board of Education Rule 0520-02-01, and State Board of Education Policy 5.201;
- Student TCAP score requirements (relating to student scores comprising a percentage of a student's final grade) found in Tenn. Code Ann. § 49-1-617 and State Board of Education Rule 0520-01-03-.03;
- Tenure requirements found in Tenn. Code Ann. § 49-5-503(4);
- Physical activity requirements, found in Tenn. Code Ann. § 49-6-1021;
- Maximum time in transit requirements, found in Tenn. Code Ann. § 49-2-2105;
- 180 days for classroom instruction requirement, found in Tenn. Code Ann. § 49-6-3004(a)(1);
- 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);
- Appeal of third-grade retention requirement, found in Tenn. Code Ann. § 49-6-3115(d) and State Board of Education Rule 0520-01-.03-.16(7)(f);
- Duty free lunch and planning time requirement, found in State Board of Education Rule 0520-01-02-.31(6); and
- Professional development points requirement, found in State Board of Education Rule 0520-02-03-.14.

The waiver requests listed in the attached application are approved for the remainder of the 2022-23 school year. Please do not hesitate to call 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](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:**

Tipton County Schools

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**School Information (if applicable):**

School Name:

NA- Districtwide

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Street:

1580 Highway 51 South

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City: Covington

Zip Code: 38019

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

See attached.

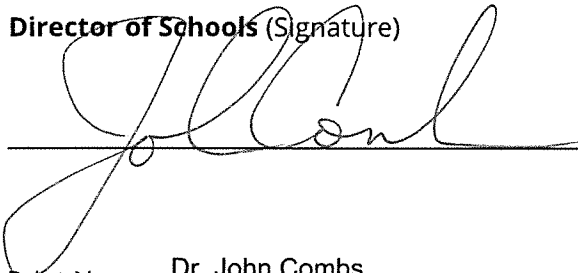
**Explanation of how the statute(s) and/or state board rule(s) inhibits or hinders the local education agency's ability to meet its goals or comply with its mission:**

See attached.

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

Remainder of the 2022-23 school year.

**Director of Schools (Signature)**



Print Name Dr. John Combs

Date 4/26/2023

## Tipton County Schools Waiver Requests

### **Statutes and State Board Rules for which Waiver is being Requested:**

- T.C.A. § 49-1-104 and State Board Rule 0520-01-02-.31(4): Class Size Limits
- T.C.A. § 49-1-302(d)(2), T.C.A. § 49-6-105, State Board Rule 0520-02-01, and State Board Policy 5.201: Teacher and Administrator Evaluation
- T.C.A. § 49-1-617 and State Board Rule 0520-01-03-.03 (10)(d): Student TCAP Scores Comprise Percentage of Final Grade
- T.C.A. § 49-5-503(4): Tenure
- T.C.A. § 49-6-1021: Physical Activity Requirements
- T.C.A. § 49-6-2105: Maximum Time in Transit
- T.C.A. § 49-6-3004(a)(1): 180 Days for Classroom Instruction
- T.C.A. § 49-6-3004(i): Remote Instruction
- T.C.A. § 49-6-3115(d) and State Board Rule 0520-01-03-.16(7)(f): Appeal of 3rd Grade Retention
- State Board Rule 0520-01-02-.31(6): Duty Free Lunch and Planning Time
- State Board Rule 0520-02-03-.14: Professional Development Points

### **Explanation of How the Statutes and State Board Rules Inhibit or Hinder the LEA's Ability to meet its Goals or Comply with its Mission:**

On March 31, 2023, a catastrophic tornado occurred impacting Tipton County. The tornado destroyed areas of the county including two schools, Crestview Elementary and Crestview Middle. In addition, many students who attend other schools have been displaced due to the destruction of their homes.

#### ***T.C.A. § 49-1-104 and State Board Rule 0520-01-02-.31(4): Class Size Limits***

T.C.A. § 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. Tipton County Schools requests a waiver of the class size limits found in T.C.A. § 49-1-104(a) and State Board Rule 0520-01-02-.31(4) for the remainder of the 2022-23 school year to enable the district to place students in other schools as necessary.

#### ***T.C.A. § 49-1-302(d)(2), T.C.A. § 49-6-105, State Board Rule 0520-02-01, and State Board Policy 5.201: Teacher and Administrator Evaluation***

T.C.A. § 49-1-302(d)(2), T.C.A. § 49-6-105, State Board Rule 0520-02-01, and State Board Policy 5.201 require annual teacher and administrator evaluations. Tipton County Schools requests a waiver of the teacher and administrator evaluation requirements limited to the educators staffed at Crestview Elementary School and Crestview Middle School during the 2022-23 school year due to the loss of teacher observation artifacts, student growth portfolio artifacts, and school days required to meet observation pacing. The district requests these educators be given partial year exemption status (PYE) for the 2022-23 school year.

#### ***T.C.A. § 49-1-617 and State Board Rule 0520-01-03-.03 (10)(d): Student TCAP Scores Comprise Percentage of Final Grade***

Tipton County Schools requests a waiver of T.C.A. § 49-1-617 and State Board Rule 0520-01-03-.03 (10)(d) allowing the district to only include Crestview Elementary and Crestview Middle student scores on the Tennessee comprehensive assessment program (TCAP) tests, including end-of course tests, as a percentage of a student's final grade if including the test scores results in a higher final grade for the student.

#### ***T.C.A. § 49-5-503(4): Tenure***

Tipton County Schools requests a partial waiver of T.C.A. § 49-5-503(4) so that teachers staffed at Crestview Elementary School and Crestview Middle School who are or become eligible for tenure may be allowed to utilize the most recent two (2) years of available evaluation scores achieved during the probationary period to meet the provisions of the tenure law provided, however, that the teacher has met all other requirements for tenure eligibility but has not acquired an official evaluation score for the 2022-23 school year.

***T.C.A. § 49-6-1021: Physical Activity Requirements***

To the extent possible, the Tipton County Schools will create schedules to meet the minimum physical activity and physical education requirements in T.C.A. § 49-6-1021. With students transferred to multiple new locations and possibly in facilities without adequate indoor exercise spaces, meeting these requirements for the remainder of the school year may not be possible. Tipton County Schools requests a waiver of the minimum physical activity and physical education requirements in T.C.A. § 49-6-1021 for the remainder 2022-23 school year.

***T.C.A. § 49-6-2105: Maximum Time in Transit***

Routing students to temporary locations may make it difficult in some instances to comply with the 1.5 maximum time in transit requirement in T.C.A. § 49-6-2105. Tipton County Schools requests a waiver of this requirement for the remainder of the 2022-23 school year. Tipton County Schools will ensure that no student is in transit for longer than 110 minutes.

***T.C.A. § 49-6-3004(a)(1): 180 Days for Classroom Instruction***

In the event of a natural disaster, the commissioner of education may waive the 180 days for classroom instruction required by T.C.A. § 49-6-3004(a)(1). Tipton County Schools estimates displaced students from Crestview Elementary and Crestview Middle will be out of school for approximately two weeks while alternate classroom space is being obtained. Tipton County Schools requests a waiver of the 180-day instructional day requirement in the law for Crestview Elementary and Crestview Middle. Tipton County Schools will communicate to the department when students from both schools will be back in school.

***T.C.A. § 49-6-3004(i): Remote Instruction***

Pursuant to T.C.A. § 49-6-3004(i), districts can provide up to two days each semester of the required 180 days of instruction via remote instruction. Tipton County Schools requests a waiver of this law to the extent it allows students to be remote for more than two days during the Spring semester as necessary and not require that meals be served to students who receive remote instruction.

***T.C.A. § 49-6-3115(d) and State Board Rule 0520-01-03-.16(7)(f): Appeal of 3<sup>rd</sup> Grade Retention***

The catastrophic tornadoes in Tipton County may impact Tipton County students' ability to perform on TCAP. Tipton County Schools requests a waiver of T.C.A. § 49-6-3115(d) and State Board Rule 0520-01-03-.16(7)(f) to allow students achieving a performance level rating of "below" and "approaching" on the TCAP to appeal being identified for retention in 3<sup>rd</sup> grade.

***State Board Rule 0520-01-02-.31(6): Duty Free Lunch and Planning Time***

Relocating students from affected facilities to other buildings in the district will cause situations where teachers may not be able to have a duty-free lunch or other required planning time. Students may need to eat in classrooms and will need to be supervised. Therefore, Tipton County Schools requests a waiver of the duty-free planning and lunch requirements in State Board Rule 0520-01-02-.31(6) for the remainder of the 2022-23 school year. Tipton County Schools will accommodate individual teacher requests.

***State Board Rule 0520-02-03-.14: Professional Development Points***

Tipton County Schools requests that teachers receiving PYE receive the number of professional development points earned during the 2021-22 school year, with a minimum of 10 professional development points awarded per educator, regardless of previous level of overall effectiveness (LOE) due to the loss of assessment documentation in accordance with State Board Rule 0520-02-03-.14. It is requested that the department manage all required record changes.