

**RULES  
OF  
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-18  
TEXTBOOK AND INSTRUCTIONAL MATERIALS WAIVERS**

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**0520-01-18-.01 DEFINITIONS.**

- (1) As used in this chapter:
- (a) “Textbook” has the same meaning as in T.C.A. § 49-6-2202(e) and the Rules of the State Textbook Commission 0520-05-01-.01.
  - (b) “Instructional Materials” has the same meaning as in the Rules of the State Textbook Commission 0520-05-01-.01.
  - (c) “Open Education Resources (OER)” means freely accessible, open-licensed curriculum that includes text, media, and other digital assets that constitutes a full curriculum that conforms to the relevant Tennessee Academic Standards.
  - (d) “Supplemental Materials” means resources used to complement or enhance the adopted Textbook and Instructional Materials for specific lessons, units, or topics, but which do not comprise the majority of standards for the grade-specific subject.
  - (e) “State Board” means the Tennessee State Board of Education.
  - (f) “The Department” means the Tennessee Department of Education.
  - (g) “Textbook Commission” means the Tennessee State Textbook and Instructional Materials Quality Commission established pursuant to T.C.A. § 49-6-2201.
  - (h) “LEA” means a Tennessee local education agency and has the same meaning given in T.C.A. § 49-1-103(2).
  - (i) “Local Board” means a Tennessee local board of education.

**Authority:** T.C.A. §§ 49-6-2202 and 49-6-2206. **Administrative History:** Emergency rules filed August 26, 2020; effective through February 22, 2021.

**0520-01-18-.02 WAIVER APPLICATION PROCESS.**

- (1) A Local Board may apply for a waiver to use Textbooks and Instructional Materials that are not on the list approved by the Textbook Commission and State Board when, in the State Board’s judgment, the unique or unusual needs of the LEA require it; provided, however, waivers are not

(Rule 0520-01-18-.02, continued)

required for Textbooks and Instructional Materials previously included on the list approved by the Textbook Commission and State Board and purchased with public funds. A waiver request may be submitted for the following categories of Textbooks and Instructional Materials:

- (a) Textbooks or Instructional Materials that were reviewed by the Textbook Commission but that did not pass the review and were not included on the list approved by the Textbook Commission and the State Board.
  - (b) Textbooks or Instructional Materials that were not reviewed by the Textbook Commission, including:
    - i. Publisher-Created Materials;
    - ii. Open Education Resources; and
    - iii. District-Created Materials.
- (2) Each waiver request shall be approved by the Local Board and submitted by the Director of Schools or the Director's designee to the State Board on the waiver application developed by the State Board staff and posted on the State Board's website. The application shall include, but not be limited to, the following information:
- (a) The publisher(s) and title(s) of the requested Textbooks and/or Instructional Materials, if applicable;
  - (b) Grade levels and/or courses for the requested waiver;
  - (c) A clear explanation of the unique or unusual needs of the school system necessitating the waiver request;
  - (d) Evidence of student outcomes with the requested Textbooks and/or Instructional Materials, if applicable;
  - (e) Evidence of improved student outcomes when utilizing Textbook and/or Instructional Materials waivers the district has been granted in the past, if applicable;
  - (f) A statement of assurance by the LEA that the requested Textbooks and/or Instructional Materials and any Supplemental Materials the LEA plans to use as part of the waiver request were not created to align exclusively with the Common Core State Standards or are not marketed or otherwise identified as Common Core Textbooks or Instructional Materials;
  - (g) For Textbooks and/or Instructional Materials that were reviewed by the Textbook Commission but did not pass and were not included on the list approved by the Textbook Commission and the State Board, the Local Board shall submit:
    - i. For district-wide adoptions, a completed rubric from the local adoption committee created pursuant to T.C.A. § 49-6-2207 that explains how it will address the deficiencies identified by the Textbook Commission. If the Textbook Commission failed the Textbooks and/or Instructional Materials for lack of alignment to

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Tennessee Academic standards, the rubric submitted by the Local Board shall also include but not be limited to a table indicating the alignment of the proposed Textbooks and/or Instructional Materials with each Tennessee Academic Standard in the relevant grade and subject. The rubric shall also include any planned use of Supplemental Materials to address misalignment with the Tennessee Academic Standards to ensure comprehensive coverage; or;

- ii. For limited use adoptions which include credit recovery programs, alternative schools, virtual schools, and virtual education programs, the Local Board shall submit a completed rubric that explains how it will address the deficiencies identified by the Textbook Commission. If the Textbook Commission failed the Textbooks and/or Instructional Materials for lack of alignment to Tennessee Academic standards, the rubric submitted by the Local Board shall also include but not be limited to a table indicating the alignment of the proposed Textbooks and/or Instructional Materials with each Tennessee Academic Standard in the relevant grade and subject. The rubric shall also include any planned use of Supplemental Materials to address misalignment with the Tennessee Academic Standards to ensure comprehensive coverage.
- (h) For Textbooks and/or Instructional Materials that were not reviewed by the Textbook Commission, the Local Board shall submit:
- i. A completed rubric from the local adoption committee created pursuant to T.C.A. § 49-6-2207 that indicates the extent to which the Textbook and/or Instructional Materials are aligned to the Tennessee Academic Standards. The rubric shall include, but not be limited to, a table indicating the alignment of the proposed Textbooks and/or Instructional Materials with each Tennessee Academic Standard in the relevant grade and subject. The rubric shall also include any planned use of Supplemental Materials to address areas of misalignment, if any, with the Tennessee Academic Standards to ensure comprehensive coverage; or;
  - ii. For limited use adoptions which include credit recovery programs, alternative schools, virtual schools, and virtual education programs, the Local Board shall submit a completed rubric that indicates the extent to which the Textbook and/or Instructional Materials are aligned to the Tennessee Academic Standards. The rubric shall include, but not be limited to, a table indicating the alignment of the proposed Textbooks and/or Instructional Materials with each Tennessee Academic Standard in the relevant grade and subject. The rubric shall also include any planned use of Supplemental Materials to address areas of misalignment, if any, with the Tennessee Academic Standards to ensure comprehensive coverage.
- (i) Any additional evidence of the requested Textbooks and/or Instructional Materials' quality.
- (3) Waiver requests shall be submitted no later than March 15<sup>th</sup> of the local adoption year during the adoption cycle established by the Textbook Commission for the applicable subject area; provided, however, a Local Board may submit an emergency waiver request outside of this established deadline for the applicable subject if emergency circumstances exist justifying the emergency waiver request. Emergency circumstances include:

(Rule 0520-01-18-.02, continued)

- (a) The LEA has submitted a request to the Department to implement its Continuous Learning Plan as defined in State Board Rule 0520-01-17 and the LEA's CLP includes the use of the requested Textbooks and/or Instructional Materials.
  - (b) The LEA has submitted an application to the Department to open a new virtual school and is seeking a waiver specifically to use Textbooks and/or Instructional Materials that support virtual learning.
  - (c) The LEA intends to offer, for the first time, a course for which no state-approved Textbooks and/or Instructional Materials exist.
- (4) The Department shall assist the State Board staff in administering the Textbook and Instructional Materials waiver review process by providing staff to serve as subject-matter experts for each content area. The Department subject matter experts shall provide feedback on the rubric developed by State Board staff for each completed and properly submitted waiver application no more than ninety (90) calendar days after receipt of the following from State Board staff:
  - (a) The completed and properly submitted LEA application, and
  - (b) Access to the relevant Textbooks and/or Instructional Materials for which the waiver is being requested.
- (5) State Board staff shall develop a process for review of completed and properly submitted waiver applications in consultation with the Department's subject-matter experts.
- (6) State Board staff may request additional information, clarifications, and/or revisions to waiver applications from the Local Board prior to preparing a recommendation for the State Board.
- (7) In consultation with Department subject-matter experts, State Board staff shall prepare and present a recommendation to the State Board on each completed and properly submitted waiver application utilizing the rubric ratings provided by Department subject-matter experts, additional input from Department subject-matter experts, and information provided to State Board staff by the Local Board. The recommendation shall address all factors outlined in Rule 0520-01-18-.03. Textbooks and Instructional Materials waiver requests that do not comply with the requirements of T.C.A. §§ 49-6-2202, 49-6-2206 and all other relevant state laws shall not be recommended for approval or approved by the State Board.
- (8) Waivers approved by the State Board shall remain in effect until the next adoption cycle for the course for which the waiver was granted, unless a shorter period of time is specified by the State Board or by the Local Board of Education. A waiver request that has been denied by the State Board shall not be re-submitted by the Local Board of Education to the State Board for consideration during the term of the adoption cycle for the specific content area.
- (9) LEAs shall not use textbooks or instructional materials that are not either on the state-approved adoption list or approved for use in the LEA via the waiver process set out in this rule, pursuant to T.C.A. § 49-6-2206.
- (10) A public charter school may request a waiver for the use of Textbooks and Instructional Materials in accordance with T.C.A. § 49-13-111.

(Rule 0520-01-18-.02, continued)

**Authority:** T.C.A. § 49-6-2206. **Administrative History:** Emergency rules filed August 26, 2020; effective through February 22, 2021.

### **0520-01-18-.03 FACTORS AFFECTING WAIVER DECISION.**

- (1) In determining whether or not, in the State Board's judgment, the unique or unusual needs of the LEA merit the approval of a waiver application, the State Board may consider a number of factors, including, but not limited to:
  - (a) The feedback of the Department subject-matter experts for the relevant content area on the rubric developed by State Board staff.
  - (b) The explanation of the unique or unusual needs of the LEA necessitating the use of the requested Textbooks and/or Instructional Materials in the waiver application.
  - (c) The extent of the Textbook and/or Instructional Materials' alignment to Tennessee Academic Standards and, if necessary, the extent to which the LEA's plan would remediate any areas of misalignment.
  - (d) How the LEA will address deficiencies identified by the Textbook Commission, if applicable.
  - (e) Evidence of improved student outcomes in the LEA when utilizing Textbook and/or Instructional Materials waivers the LEA has been granted in the past, if applicable.
  - (f) The availability of state-approved Textbooks and/or Instructional Materials for the requested course and/or subject.

**Authority:** T.C.A. § 49-6-2206. **Administrative History:** Emergency rules filed August 26, 2020; effective through February 22, 2021.