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**Academic and Instructional Requirements Rule 0520-01-03-.03 and -.16**

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**The Background:**

This item proposes rule revisions required by Chapter 1 of the Public Acts of 2021, First Extraordinary Session (PC1), known as the Tennessee Learning Loss Remediation and Student Acceleration Act. In addition to outlining various requirements designed to help accelerate student learning, PC 1 also updated the state's third grade retention law. Specifically, section 2 of PC 1, now codified at T.C.A. § 49-6-3115, requires the following:

“Beginning with the 2022-2023 school year, a student in the third grade shall not be promoted to the next grade level unless the student is determined to be proficient in English language arts (ELA) based on the student's achieving a performance level rating of "on track" or "mastered" on the ELA portion of the student's most recent Tennessee comprehensive assessment program (TCAP) test.”

The law then authorizes students who achieve a “below” or “approaching” performance level on the third grade ELA TCAP to be promoted if specific conditions are met by the student. The list of conditions includes re-testing on TCAP, attending a learning loss bridge camp before the beginning of the upcoming school year, demonstrating adequate growth on the learning loss bridge camp pre- and post-test, or being assigned a tutor through the Tennessee accelerating literacy and learning corps (TN ALL Corps) and receiving tutoring services for the entirety of the following school year.

PC 1 also requires the State Board of Education (SBE) to promulgate rules to establish an appeal process to be administered by the Department for a student who is identified for retention in third grade based on the student achieving a performance level rating of "approaching" on the ELA portion of the student's most recent TCAP test. The revisions to current rule incorporated in this item set forth this appeal process.

These revisions must be effective early in the 2022-23 school year so promotion and retention requirements are clear for students, parents, and families prior to retention decisions being made in the spring and summer of 2023.

One additional edit was made to clarify the transferability of credits taken at Category I, II, and III schools to any other approved school.

A rulemaking hearing was held on July 6, 2022. Two public comments were submitted in writing regarding this rule.

Between first and final reading, revisions were made to clarify that retention and promotion decisions for students with a disability or a suspected disability that impacts their ability to read must be made on a case-by-case basis in consultation with the student's IEP and/or 504 team. Revisions were also made to lengthen the appeals window from 7 days to 14 days for a parent or guardian to file an appeal to the Department upon receiving notification from the LEA or public charter school that the student is identified for retention.

Additional edits were made to requirements for students transferring from certain private schools to public schools to ensure alignment with current law as well as to change the name of the four-year plan of study to the “High School and Beyond Plan” based on feedback from school counselor stakeholder groups.

**The Fiscal Analysis Impact:**

T.C.A. § 49-1-212 requires that the Department prepare a fiscal analysis of any policy, rule, or regulation proposed to the State Board of Education. This item has no financial impact on an LEA in addition to the authorizing legislation.

**The Recommendation:**

The Department of Education recommends approval of this item on final reading. The SBE staff concurs with this recommendation.