

**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 State Textbook Commission Rule 0520-05-01-.01
 - (b) “Instructional Materials” has the same meaning as in State Textbook Commission Rule 0520-05-01-.01.
 - (c) “Supplemental Materials” means resources used to complement or enhance the State Board-approved Textbook and Instructional Materials for specific lessons, units, or topics, but which do not comprise the majority of standards for the subject-specific grade or course.
 - (d) “State Board” means the Tennessee State Board of Education.
 - (e) “The Department” means the Tennessee Department of Education.
 - (f) “Textbook Commission” means the Tennessee State Textbook and Instructional Materials Quality Commission established pursuant to T.C.A. § 49-6-2201.
 - (g) “LEA” means a Tennessee local education agency and has the same meaning given in T.C.A. § 49-1-103(2).
 - (h) “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. Emergency rules expired effective February 23, 2021, and the rules reverted to their previous statuses. Original rules filed December 17, 2020; effective March 17, 2021.

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

- (1) LEAs shall apply for a Textbook and Instructional Materials waiver (waiver) to use Textbooks and Instructional Materials not approved by the State Board if the proposed materials were:
 - (a) Reviewed by the Textbook Commission and were not recommended to the State Board for approval; or

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

- (b) Were not reviewed by the Textbook Commission.
- (2) An LEA shall not apply for a waiver to use:
 - (a) Textbooks and Instructional Materials currently adopted by the Textbook Commission and approved by the State Board; or
 - (b) Textbooks and Instructional Materials for a subject-specific course or grade level in which currently approved Textbooks or Instructional Materials do not exist.
- (3) If an LEA is not required to submit a waiver in accordance with subparagraph (2)(b), LEAs may adopt Textbooks and Instructional Materials, provided the LEA has:
 - (a) Reviewed the proposed materials for alignment with current and applicable Tennessee Academic Standards;
 - (b) Determined the proposed materials are compliant with state and federal law; and
 - (c) Adopted the materials in accordance with local adoption policies and procedures.
- (4) Each waiver application shall be approved by the Local Board and may be submitted on their behalf 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 Textbook(s) and/or Instructional Materials, if applicable;
 - (b) Grade level(s) and/or course(s) for the waiver application;
 - (c) A clear explanation of the unique or unusual needs of the LEA necessitating the waiver application;
 - (d) Evidence of student outcomes based on the requested Textbook(s) and/or Instructional Materials, if applicable;
 - (e) Evidence of research or evaluation of the Textbook(s) and/or Instructional Materials' quality, if applicable;
 - (f) Evidence of improved student outcomes in the LEA before and since utilizing Textbook(s) and/or Instructional Materials from waivers the LEA has been granted in the past, if applicable;
 - (g) A statement of assurance by the LEA that the requested Textbook(s) and/or Instructional Materials and any Supplemental Materials the LEA plans to use as part of the waiver application 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 pursuant to T.C.A. § 49-6-2206;
 - (h) A statement of assurance by the LEA that the requested Textbook(s) and/or Instructional Materials and any Supplemental Materials the LEA plans to use as part of the waiver application comply with T.C.A. § 49-6-1019 related to prohibited concepts; and

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- (i) A statement of assurance by the LEA that the requested Textbook(s) and/or Instructional Materials and any Supplemental Materials the LEA plans to use as part of the waiver comply with all other state and federal laws.
- (j) For Textbooks or Instructional Materials that were reviewed by the Textbook Commission but were not recommended to the State Board for approval, the LEA shall submit:
 - 1. For LEA-wide adoptions, a completed rubric from the local adoption committee created pursuant to T.C.A. § 49-6-2207 that explains how the LEA will address the deficiencies identified by the Textbook Commission. If the Textbook Commission did not recommend the Textbook(s) or Instructional Materials for approval based on lack of alignment to Tennessee Academic Standards, the rubric shall also include but not be limited to a table indicating the alignment of the proposed Textbook(s) and/or Instructional Materials with each Tennessee Academic Standard in the relevant subject-specific grade or course. The rubric shall also include any planned use of Supplemental Materials to address misalignment with the Tennessee Academic Standards to ensure comprehensive coverage; or
 - 2. For limited-use adoptions, which include credit recovery programs, alternative schools, virtual schools, and virtual education programs, a completed rubric that explains how the LEA will address the deficiencies identified by the Textbook Commission. If the Textbook Commission did not recommend the Textbook(s) or Instructional Materials for approval based on lack of alignment to Tennessee Academic Standards, the rubric shall also include but not be limited to a table indicating the alignment of the proposed Textbook(s) and/or Instructional Materials with each Tennessee Academic Standard in the relevant subject-specific grade or course. The rubric shall also include any planned use of Supplemental Materials to address misalignment with the Tennessee Academic Standards to ensure comprehensive coverage.
- (k) For Textbooks or Instructional Materials that were not reviewed by the Textbook Commission, LEAs shall submit:
 - 1. For LEA-wide adoptions, 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(s) 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 Textbook(s) and/or Instructional Materials with each Tennessee Academic Standard in the relevant subject-specific grade or course. 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
 - 2. For limited-use adoptions which include credit recovery programs, alternative schools, virtual schools, and virtual education programs, a completed rubric that indicates the extent to which the Textbook(s) 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 Textbook(s) and/or Instructional Materials with each Tennessee Academic Standard in the relevant subject-specific grade or course. The rubric shall also include any planned use of Supplemental

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Materials to address areas of misalignment, if any, with the Tennessee Academic Standards to ensure comprehensive coverage.

- (l) Any additional evidence of the requested Textbook(s) and/or Instructional Materials' quality.
- (5) Waiver applications shall be submitted no later than March 15th of the local adoption year during the adoption cycle established by the Textbook Commission for the applicable subject area; provided, however, an LEA may submit an emergency waiver application outside of this established deadline for the applicable subject if emergency circumstances exist justifying the emergency waiver application. Emergency circumstances include:
 - (a) The LEA has submitted an application to the Department to implement its Continuous Learning Plan (CLP) as defined in State Board Rule 0520-01-17.
 - (b) The LEA has submitted an application to the Department to open a new virtual school.
- (6) 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 Textbook(s) and/or Instructional Materials for which the waiver is being requested.
- (7) 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.
- (8) State Board staff may request additional information, clarifications, and/or revisions to waiver applications from the LEA prior to preparing a recommendation for the State Board.
- (9) 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 LEA. The recommendation shall address all factors outlined in Rule 0520-01-18-.03. Textbook and Instructional Materials waiver applications that do not comply with the requirements of T.C.A. § 49-6-2202, T.C.A. § 49-6-2206, and all other relevant state laws shall not be recommended for approval or approved by the State Board.
- (10) 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 LEA. A waiver application that has been denied by the State Board shall not be resubmitted by the LEA to the State Board for consideration during the term of the adoption cycle for the specific content area.
- (11) A public charter school may apply for 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)

to their previous statuses. Original rules filed December 17, 2020; effective March 17, 2021. Amendments filed August 5, 2021; effective November 3, 2021.

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

- (1) In determining whether, in the State Board's judgment, to approve a waiver application, the State Board may consider a number of factors, including, but not limited to:
 - (a) The explanation of the unique or unusual needs of the LEA necessitating the use of the requested Textbook(s) and/or Instructional Materials in the waiver application.
 - (b) Department subject-matter expert feedback, including the requested Textbook(s) 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.
 - (c) How the LEA will address deficiencies identified by the Textbook Commission, if applicable.
 - (d) Evidence of student outcomes based on the requested Textbook(s) and/or Instructional Materials, if applicable.
 - (e) Evidence of research or evaluation on the requested Textbook(s) and/or Instructional Materials' quality, if applicable.
 - (f) Evidence of improved student outcomes in the LEA before and since utilizing Textbook(s) and/or Instructional Materials from waivers the LEA has been granted in the past, if applicable.

Authority: T.C.A. § 49-6-2206. **Administrative History:** *Emergency rules filed August 26, 2020; effective through February 22, 2021. Emergency rules expired effective February 23, 2021, and the rules reverted to their previous statuses. Original rules filed December 17, 2020; effective March 17, 2021.*