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# Notice of Rulemaking Hearing

*Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.*

<b>Agency/Board/Commission:</b>	State Board of Education
<b>Division:</b>	N/A
<b>Contact Person:</b>	Angie Sanders
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*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Angie Sanders
<b>Address:</b>	500 James Robertson Parkway, 8th Floor, Nashville, TN 37243
<b>Phone:</b>	(615) 253-5707
<b>Email:</b>	Angela.C.Sanders@tn.gov

**Hearing Location(s)** (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:	Davy Crockett Building, Conference Room 1C, 1 <sup>st</sup> Floor		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	10/2/2023		
Hearing Time:	9:30 am	<input checked="" type="checkbox"/> CST/CDT	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

<p><b>**Anyone wishing to participate electronically may access the hearing using the following information:**</b></p> <p><b>URL:</b> <a href="https://tn.webex.com/tn/j.php?MTID=mde469dd35868d621cba91fda2943f5dd">https://tn.webex.com/tn/j.php?MTID=mde469dd35868d621cba91fda2943f5dd</a></p> <p><b>Meeting number:</b> 2313 717 3233</p> <p><b>Password:</b> SBERules</p> <p><b>Phone:</b> +1-415-655-0001</p> <p><b>Access Code:</b> 2313 717 3233</p> <p>Please check the State Board's website at <a href="https://www.tn.gov/sbe/meetings.html">https://www.tn.gov/sbe/meetings.html</a> for any additional information regarding this rulemaking hearing.</p> <p>Oral comments are invited at the hearing.</p> <p>In addition, written comments may be submitted via email at <a href="mailto:angela.c.sanders@tn.gov">angela.c.sanders@tn.gov</a> or mailed to:</p>
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Tennessee State Board of Education  
 Attention: Angie Sanders  
 Davy Crockett Tower, 8th Floor  
 500 James Robertson Parkway  
 Nashville, Tennessee 37243

Written comments must be received by **9:00 AM CT on October 5, 2023** in order to ensure consideration.

**\*\*\*Email comments are preferred as regular mail is running very slow and may not arrive in time\*\*\***

For further information, please contact Angie Sanders by e-mail at [angela.c.sanders@tn.gov](mailto:angela.c.sanders@tn.gov).

If attending the hearing in-person, please bring identification so that you may be checked into the building by security. Conference room 1C is located on the first floor.

**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0520-01-02	District and School Operations
Rule Number	Rule Title
0520-01-02-.09	Alternative Education

Chapter Number	Chapter Title
0520-01-03	Academic and Instructional Requirements
Rule Number	Rule Title
0520-01-03-.03	Academic Program Requirements
0520-01-03-.07	Civics

Chapter Number	Chapter Title
0520-01-02	District and School Operations
Rule Number	Rule Title
0520-01-02-.17	State Enrollment and Attendance Guidelines

Chapter Number	Chapter Title
0520-02-06	Employment Standards
Rule Number	Rule Title
0520-02-06-.03	Employment Standards for Supervisors
0520-02-06-.04	Employment Standards for Additional Support Personnel

Chapter Number	Chapter Title
0520-12-01	Standards for School Administered Child Care Programs
Rule Number	Rule Title
0520-12-01-.07	Staff

**AMENDMENT**  
**RULES**  
**OF**  
**THE TENNESSEE DEPARTMENT OF EDUCATION**  
**THE STATE BOARD OF EDUCATION**  
**CHAPTER 0520-01-02**  
**DISTRICT AND SCHOOL OPERATIONS**

**0520-01-02-.09 ALTERNATIVE EDUCATION.**

- (1) Alternative education is a non-traditional, short-term academic program or school designed to meet the student's educational, behavioral, and social needs. Alternative education includes alternative schools and alternative programs.
- (2) Alternative school means a short-term intervention program designed to provide educational services outside of the regular school program for students who have been suspended or expelled. Alternative schools are located in a separate facility from the regular school program.
- (3) Alternative program means a short-term intervention program designed to provide educational services outside of the regular school program for students who have been suspended or expelled. Alternative programs may be located within the regular school or be a self-contained program within a school. Alternative programs include, but are not limited to, night schools or in-school suspension.
- (4) Pursuant to T.C.A. § 49-6-3402(i) alternative schools and alternative programs may provide virtual instruction to students assigned to the alternative school or alternative program through a virtual school or virtual program in accordance with State Board Virtual Education Rule 0520-01-03-.05. Tracking of student attendance for students assigned to an alternative school or alternative program who are receiving virtual instruction shall comply with the attendance procedures set forth in State Board Virtual Education Rule 0520-01-03-.05.
- (5) Pursuant to T.C.A. § 49-6-3402, local boards of education may establish alternative schools or alternative programs for students in grades one (1) through six (6) who have been suspended or expelled from the regular school program.
- (6) Attendance in an alternative school or alternative program shall be voluntary for students in grades one through six (1-6) who have been suspended or expelled from the regular school program, unless the local board of education adopts a policy mandating attendance in either instance.
- (7) A local board of education shall establish at least one (1) alternative school or alternative program for students in grades seven (7) through twelve (12) who have been suspended or expelled. Attendance in an alternative school or alternative program is mandatory for students in grades seven through twelve (7-12) who have been suspended for more than ten (10) days or expelled from the regular school program if space and staff are available. Space and staff availability shall be determined by the LEA at the time the disciplinary decision is rendered.
  - (a) Attendance in an alternative school or alternative program is not mandatory for students in grades seven through twelve (7-12) who have been expelled from the regular school program for committing a zero-tolerance offense. However, this does not prohibit a director of schools, or a director's designee, from assigning a student who has been expelled from the regular school program for committing a zero-tolerance offense to an alternative school or alternative program.

- (b) A director of schools, or a director's designee, is not required to assign a student in grades seven through twelve (7-12) who has been suspended for more than ten (10) days or expelled from the regular school program for an offense of violence or threatened violence, or an offense that threatened the safety of persons attending or assigned to the student's school, to an alternative school or alternative program if conditions set forth in T.C.A. § 49-6-3402(c)(1)(C) are met.
- (8) Students in pre-Kindergarten or Kindergarten shall not be assigned to an alternative school or alternative program.
  - (9) Each local board of education shall adopt a policy regarding alternative education that is aligned to this rule and the State Board's Alternative Education Policy 2.302.
  - (10) Requirements for alternative education:
    - (a) The instruction shall proceed as nearly as practicable in accordance with the instructional program in the student's regular school. Instruction shall be based on the academic standards adopted by the State Board.
    - (b) All course work and credits earned shall be transferred and recorded in the student's home school, which shall grant credit earned and progress thereon as if earned in the home school.
    - (c) Students shall participate in all required state assessments at sites determined by school officials and in accordance with established guidelines regarding student grade levels and eligibility. State assessment results shall be reported in the LEA where the student was enrolled prior to his or her placement in the alternative school.
    - (d) Each alternative school or alternative program shall comply with class size requirements established in T.C.A. § 49-1-104 and instructional and planning time requirements established by the State Board. Nothing shall prohibit an LEA from establishing a lower class size ratio in an alternative school or alternative program.
    - (e) The minimum length of the school day for alternative schools and alternative programs shall be six and one-half (6½) hours.
    - (f) LEAs shall monitor and regularly evaluate the academic progress of each student enrolled in an alternative school or alternative program.
    - (g) Students are subject to all rules pertaining to the alternative school or alternative program.
      - 1. The director of schools, or the director's designee, may remove a student from the alternative school or alternative program if the director, or the director's designee, determines that:
        - (i) The student has violated the rules of the alternative school or alternative program; or
        - (ii) The student is not benefiting from the student's assignment to the alternative school or alternative program, and all interventions available to help the student to succeed in the alternative school or alternative program have been exhausted unsuccessfully.
      - 2. A student's removal from the alternative school or alternative program shall not constitute grounds for extending the length of original suspension or expulsion.
      - 3. The director of schools, or the director's designee, shall make the final decision on removal.

- (h) If a student has an active Individualized Education Program (IEP), a 504 plan, or is suspected of having a disability, all state and federal laws and rules relating to students with disabilities and special education shall be followed.
- (i) Prior to the assignment of a student to an alternative school or alternative program, the LEA shall provide written notice, which includes the reason for the student's placement, to the student's parent or guardian. Reasons for placement in an alternative school or alternative program must be documented. End of year reports must be made to the regular school for each student.
- (j) Each teacher providing instruction to students in an alternative school or alternative program shall be licensed to teach in Tennessee and shall meet the qualifications to teach in compliance with the rules and regulations of the State Board.
- (k) Alternative schools shall have an appropriately licensed administrator assigned to supervise the school.
- (l) Support services such as counseling and psychological services must be accessible.
- (m) Each LEA shall develop and implement formal transition plans for the integration of students from a traditional school to an alternative school or from an alternative school back to a traditional school. Transition plans shall be targeted to improve communication between a traditional school and an alternative school staff and should address any barriers that would prohibit students from successfully transitioning. Transition plans shall include aligning of curricula, in-take procedures for students returning to traditional school, professional development opportunities for traditional and alternative school staff, educational and behavioral supports, follow-up for students returning to traditional school, and the development of graduation and postsecondary goals.
- (n) All alternative school classrooms shall have working two-way communication systems that make it possible for teachers or other employees to notify a principal, supervisor, or other administrator that there is an emergency.
- (o) It is the responsibility of the director of schools to ensure that all alternative school teachers and other employees have been trained to use the two-way communication system and are notified of emergency procedures prior to the beginning of classes for any school year and when changes are made in the emergency procedures and/or personnel. Such emergency procedures shall be linked to the school and school system emergency preparedness plan.
- (p) LEAs shall submit an annual alternative education survey to the Department that provides the following information:
  1. Alternative schools or alternative programs currently in operation in the LEA;
  2. Number and grade level of students served;
  3. Primary reason for student assignment;
  4. Number of faculty and staff; and
  5. Information required by T.C.A. § 49-6-3405.

(11) Funding:

- (a) Students attending an alternative school or alternative program shall continue to earn funding through the state's K-12 education funding formula for the LEA in which the student is enrolled.

(12) Facilities:

- (a) A local board of education may not contract or otherwise affiliate with an alternative school program which requires an order of a court as a precondition of placement in such alternative school.
- (b) A local board of education may contract with independent contractors to provide alternative school facilities and other appropriate services consistent with T.C.A. § 49-2-203.
- (c) A local board of education may establish its own facility.
- (d) Two or more boards may join together and establish an alternative school attended by students from any such LEA.
- (e) Through a mutually accepted agreement with another local board of education, a board may send its suspended or expelled students to an alternative school already existing in another LEA or may enter into an agreement with an LEA that established a virtual school to provide virtual instruction to students who have been suspended or expelled.

**Authority:** T.C.A. §§ 49-6-3401, 49-6-3402, and 49-6-3405. **Administrative History:** Original rule certified June 10, 1974. Amendment filed February 28, 1978; effective March 30, 1978. Amendment filed January 9, 1979; effective February 23, 1979. Amendment filed April 14, 1980; effective May 28, 1980. Amendment filed June 28, 1984; effective September 11, 1984. Amendment filed January 2, 1986; effective April 15, 1986. Amendment filed May 28, 1986; effective June 27, 1986. Amendment filed April 24, 1987; effective June 8, 1987. Repeal and new rule filed March 16, 1992; effective June 29, 1992. Amendment filed June 24, 1992; effective September 28, 1992. Amendment filed April 18, 1997; effective August 28, 1997. Amendment filed April 27, 1998; effective August 28, 1998. Amendments filed August 20, 2020; effective November 18, 2020.

**AMENDMENT**

**RULES  
OF  
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-03  
ACADEMIC AND INSTRUCTIONAL REQUIREMENTS**

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**0520-01-03-.03 ACADEMIC PROGRAM REQUIREMENTS.**

- (1) The Tennessee state academic standards approved by the State Board shall be used for all courses grades kindergarten through twelve (K-12).
- (2) All textbooks and instructional materials adopted and purchased shall be aligned with state academic standards.
- (3) All courses listed in State Board's Approved High School Courses Policy 3.205 may be offered for credit in grades nine through twelve (9-12). Additional details about approved courses shall be included in the Correlation of Course and Endorsement Codes database managed by the Department of Education.
- (4) LEAs may offer special courses in addition to the courses listed in the State Board's Approved High School Courses Policy 3.205. Such special courses shall be approved by the Department of Education and the State Board. Each special course approved by the Department shall be recommended to the State Board for an approval period of one (1), three (3), or six (6) years.
- (5) Each school shall evaluate and report in writing to the parent or legal guardian each student's progress in each subject, at least every nine (9) weeks, in accordance with the local school board's grading policy.
- (6) LEAs shall implement the Response to Instruction and Intervention (RTI<sup>2</sup>) framework adopted by the State Board. RTI<sup>2</sup> shall include high-quality instruction and interventions tailored to student need where core instructional and intervention decisions are guided by student outcome data. Tiered interventions in the areas of reading, mathematics, and/or writing shall occur in the general education setting depending on the needs of the student. If a student fails to respond to intensive interventions and is suspected of having a Specific Learning Disability as defined in State Board Rule 0520-01-09-.02, then the student may require special education interventions.
- (7) LEAs shall award high school credit to students who successfully complete college-level courses aligned to a graduation requirement course, including general education and elective focus courses.
  - (a) Local high schools shall accept postsecondary credits as a substitution for an aligned graduation requirement course, including general education and elective focus courses for

those students who take and pass dual enrollment courses at a postsecondary institution for credit.

- (b) Local boards of education may adopt policies providing for college-level courses to be offered during the school day on the high school campus. Such courses must be taught by a licensed high school teacher or credentialed postsecondary faculty member approved by the local school system and partnering postsecondary institution. These courses are to be considered part of the high school program, with content and instruction subject to the supervision of the school principal and local board of education.
- (8) Coursework successfully completed in an LEA, public charter school, or Category I, II, or III private school, including coursework completed during a summer school operated or offered by these entities, is fully transferrable to any other approved school. All summer school teachers at a summer school operated or offered by an LEA or public charter school shall be licensed and hold endorsements in the subject areas in which they are teaching.
- (9) LEAs may offer Work-Based Learning (WBL) experiences that allow students to apply classroom theories to practical problems and to explore career options. All WBL experiences shall align to the State Board's Work-Based Learning Framework set forth in State Board High School Policy 2.103.
- (10) State-mandated student testing programs shall be undertaken in accordance with procedures published by the Department of Education.
- (a) State-mandated assessments shall be given for grades three through eleven (3-11).
  - (b) End-of-course examinations shall be given in English I, English II, Algebra I, Geometry, Algebra II, Integrated Math I, Integrated Math II, Integrated Math III, U.S. History, and Biology I.
  - (c) A comprehensive writing assessment shall be conducted in at least one (1) grade within elementary, middle grades, and high school as part of the state-mandated assessment program.
  - (d) The Department of Education shall provide raw score data from the end-of-course examinations to each LEA for the purpose of including student scores on the examinations into a student's final grade for the course. The weight of the examination on the student's final average shall be determined by the LEA from a range of not less than fifteen percent (15%) and not more than twenty-five percent (25%). If an LEA does not receive its students' end-of-course examination scores at least (5) instructional days before the scheduled end of the course, then the LEA may choose not to include its students' examination scores in the students' final average.
  - (e) Each local school board shall adopt a policy that details the methodology used and the required weighting for incorporating students' scores on end-of-course examinations into final report card grades.
  - (f) Local school boards shall adopt a policy regarding security of test administration, consistent with Department of Education guidelines.
  - (g) The Department of Education shall annually report to the State Board the number and percentage of students who scored below but were promoted to the next grade level by the LEA. This data shall be disaggregated by subgroups similar to those required for federal reporting.
- (11) Beginning in the 2023-24 school year, all students in grade eight (8), including students with an Individualized Education Program (IEP), shall begin the development of the high school and beyond plan in accordance with the State Board's Middle Grades Policy 2.102 and High School Policy 2.103.
- (12) Each local board of education shall adopt a credit recovery policy, aligned to the State Board's High School



Policy 2.103, to provide standards-based extended learning opportunities for students who have previously been unsuccessful in mastering the standards required to receive course credit or earn promotion.

- (a) Each credit recovery policy shall address, at a minimum:
  - 1. Admission to and removal from credit recovery programs;
  - 2. Instruction; and
  - 3. Grading and awarding of credit.

(13) High School Equivalency Credentials.

- (a) Pursuant to T.C.A. § 4-3-1422, the Tennessee Department of Labor and Workforce Development (Department of Labor) is required to make recommendations to the State Board for approval of assessments or criteria leading to the award of a high school equivalency credential. A high school equivalency credential is recognized as being equivalent to a traditional high school diploma.
- (b) The Department of Labor shall oversee the issuance of high school equivalency credentials to individuals who meet the criteria established in subparagraphs (c) and (d) of this Rule.
- (c) An individual shall be eighteen (18) years of age before being eligible to obtain a high school equivalency credential. A seventeen (17) year old who is not currently enrolled in school or who is currently enrolled in a Tennessee public school may be eligible to obtain a high school equivalency credential upon receiving a signed recommendation from the director of schools (or the director's designee) of the LEA having jurisdiction over the individual. A seventeen (17) year old enrolled in a private school or church-related school may be eligible to obtain a high school equivalency credential upon receiving a signed recommendation from the leader of the private school or church-related school where the student is currently enrolled, The director of schools or leader of the private school or church-related school may require written documentation from the individual to support this recommendation. A seventeen (17) year old who is independently home schooled by their parent or legal guardian may be eligible to obtain a high school equivalency credential upon receiving a signed recommendation from the individual's parent or legal guardian.
- (d) A high school equivalency credential may be obtained by meeting the requirements of any one (1) of the following pathways:
  - 1. Pathway 1: High School Equivalency Test (HiSET).
    - (i) The HiSET test shall be operated in accordance with the policies established by the Department of Labor.
    - (ii) The HiSET test consists of five (5) subtests that count twenty (20) points each. In order to pass, the total composite score on the HiSET test shall be forty-five (45) or higher, and the minimum score on each subtest shall be eight (8) or higher.
  - 2. Pathway 2: General Educational Development Test (GED).
    - (i) The GED test shall be operated in accordance with the policies established by the Department of Labor.
    - (ii) The GED test consists of four (4) subtests that count 200 points each. In order to pass, the score on each subtest shall be 145 or higher.

3. Pathway 3: Multiple Measures.

- (i) Demonstrating subject matter competency by achieving passing sub-test scores in math, reading, writing/language, science, and social studies. Passing scores can be demonstrated through a combination of HiSET, GED, Test of Adult Basic Education (TABE), CASAS GOALS, or ACT WorkKeys subtests.
  - (I) All tests shall be operated in accordance with the policies established by the Department of Labor.
  - (II) The TABE test consists of three (3) subtests in the subject areas of math, reading, and writing/language. In order to pass the math subtest, the scale score shall be 537 or higher. In order to pass the reading subtest, the scale score shall be 536 or higher. In order to pass the writing/language subtest, the scale score shall be 547.
  - (III) The CASAS GOALS test consists of two (2) subtests in the subject areas of math and reading. In order to pass the math subtest, the scale score shall be 214 or higher. In order to pass the reading subtest, the scale score shall be 228 or higher.
  - (IV) The ACT WorkKeys test consists of one (1) math subtest and one (1) reading subtest. In order to pass the math subtest, the “Applied Math” score shall be 83 or higher. In order to pass the reading subtest, the “Workplace Documents” score shall be 78 or higher.

**Authority:** T.C.A. §§ 4-3-1422, 49-1-302, 49-1-302(a)(2) and (13), 49-2-110, 49-2-114, 49-6-101, 49-6201, 49-6-3001, 49-6-3003, 49-6-3005(a) and (a)(4), 49-6-3104, 49-6-3105, and 49-6-6201; Sections 30, 78 through 80, and 88 of Chapter 535 of the Public Acts of 1992; and Public Chapter 652 of 2020. **Administrative History:** Original rule certified June 10, 1974. Amendment filed February 28, 1978; effective March 30, 1978. Amendment filed April 14, 1980; effective May 28, 1980. Amendment filed July 19, 1982; effective October 13, 1982. Repeal and new rule filed April 18, 1983; effective May 18, 1983. Amendment filed June 10, 1983; effective September 14, 1983. Amendment filed June 27, 1984; effective July 27, 1984. Amendment filed June 28, 1984; effective July 28, 1984. Amendment filed May 28, 1986; effective June 27, 1986. Repeal and new rule filed March 16, 1992; effective June 29, 1992. Amendment filed July 21, 1992; effective October 28, 1992. Amendment filed September 1, 1992; effective December 29, 1992. Amendment filed October 11, 1995; effective February 28, 1996. Amendment filed April 29, 1996; effective August 28, 1996. Amendment filed May 31, 1996; effective September 27, 1996. Amendment filed May 28, 1999; effective September 28, 1999. Amendment filed August 31, 2001; effective December 28, 2001. Amendment filed March 28, 2002; effective July 29, 2002. Amendment filed June 30, 2003; effective October 28, 2003. Amendment filed March 1, 2005; effective July 29, 2005. Amendment filed September 6, 2007; effective January 28, 2008. Amendment filed April 30, 2009; effective August 28, 2009. Amendment filed October 20, 2009; effective March 31, 2010. Amendment filed March 25, 2010; effective August 29, 2010. Amendment filed December 19, 2012; effective May 30, 2012. Amendments filed March 21, 2012; effective August 29, 2012. Amendment filed February 6, 2013; effective July 29, 2013. Amendment filed May 22, 2015; effective August 20, 2015. Amendments filed October 25, 2017; effective January 23, 2018. Amendments filed March 20, 2018; to have been effective June 18, 2018. However, on May 24, 2018, the Government Operations Committee filed a 5-day stay; new effective date June 23, 2018. Amendments filed January 11, 2019; effective April 11, 2019. Amendments filed August 20, 2020; effective November 18, 2020. Emergency rules filed November 19, 2020; effective through May 18, 2021. Emergency rules expired effective May 19, 2021, and the rules reverted to their previous statuses. Amendments filed September 6, 2022; effective December 5, 2022.

**0520-01-03-.07 CIVICS.**

- (1) All high school students must take and pass a United States civics test in order to meet the social studies course credit requirement to earn a traditional diploma.

- (a) The LEA shall prepare the civics test. The test shall be developed in accordance with T.C.A. § 49-6-408.
  - (b) A student shall pass the test if the student correctly answers at least seventy percent (70%) of the questions. The LEA may provide students with the opportunity to take the test as many times as necessary. Each LEA may determine if a student's grade on the U.S. civics test will be counted in the classroom grade. A passing score on the civics test shall be noted on a student's transcript.
  - (c) The U.S. civics test shall be administered to a student who has an IEP with the accommodations and/or modifications that are deemed necessary by the IEP team.
  - (d) A school shall be recognized on the Tennessee Department of Education's website as a United States civics all-star school if all of the school's seniors receiving a traditional diploma make a passing grade of eighty five percent (85%) or higher on the United States civics test for that school year.
- (2) All LEAs shall implement a project-based assessment in civics at least once in grades four through eight (4-8) and once in grades nine through twelve (9-12) pursuant to T.C.A. § 49-6- 1028.
- (a) "Project-based" means an approach that engages students in learning essential knowledge and skills through a student-influenced inquiry process structured around complex authentic questions and carefully designed products and tasks.
  - (b) The project-based assessment shall be developed by the LEA, measure the civics learning objectives contained in the social studies standards, and allow students to demonstrate understanding and relevance of public policy; the structure of federal, state, and local governments; and both the Tennessee and the United States constitutions.
- (3) The Governor's Tennessee Excellence in Civics Education Seal shall be awarded to each school that:
- (a) Incorporates civic learning across a broad range of grades and academic subjects that build on the Tennessee academic standards, such as the civics lesson plans and the blue book lesson plans provided by the secretary of state;
  - (b) Provides instruction regarding our nation's democratic principles and practices, the significant events and individuals responsible for the creation of our foundational documents, and the formation of the governments of the United States and the state of Tennessee using the federal and state foundational documents, as evidenced by submission of at least five (5) lesson plans or activities that focus on civics and are aligned with the Tennessee academic standards and a summary of how the lesson was implemented;
  - (c) Provides professional development opportunities or student resources that facilitate civics education, such as civics education workshops offered by the secretary of state, as evidenced by submission of documentation identified by the Department of Education;
  - (d) Provides one (1) or more of the following opportunities for students to engage in real world learning activities:
    1. Participation in a mock election, such as the secretary of state's student mock election;
    2. Participation in the secretary of state's civics essay contest by at least fifteen percent (15%) of the school's students;

3. A school voter registration drive for the school or community;
  4. Participation in another state or national civics-based contest by at least fifteen percent (15%) of the school's students;
  5. Participation of an individual student or school team in the United States Senate Youth Program or Model United Nations; or
  6. Participation in a real-world learning activity recognized by the Department of Education.
- (e) Implements a high-quality, project-based assessment in accordance with T.C.A. § 49-6-1028(e), if applicable; and
- (f) Is recognized as a civics all-star school in accordance with T.C.A. § 49-6-408, if applicable.
- (4) The Governor's Tennessee Excellence in Civics Education Seal shall be awarded to each LEA in which at least eighty percent (80%) of the LEA's schools earn the Governor's Tennessee Excellence in Civics Education Seal.

**Authority:** T.C.A. §§ 49-1-302, 49-3-305, 49-6-408, 49-6-1018, and 49-6-1028. **Administrative History:** Original rule certified June 10, 1974. Amendment filed June 30, 1975; effective July 30, 1975. Amendment filed July 15, 1976; effective August 16, 1976. Amendment filed February 28, 1978; effective March 30, 1978. Amendment filed January 9, 1979; effective February 23, 1979. Amendment filed October 15, 1979; effective January 8, 1980. Amendment filed June 27, 1984; effective July 27, 1984. Amendment filed October 1, 1985; effective January 14, 1986. Amendment filed May 28, 1986; effective June 27, 1986. Amendment filed July 22, 1987; effective October 28, 1987. Repeal and new rule filed March 16, 1992; effective June 29, 1992. Amendment filed March 28, 2002; effective July 29, 2002. Repeal and new rule filed May 16, 2014; effective October 29, 2014. Amendments filed October 25, 2017; effective January 23, 2018. Amendments filed March 20, 2018; to have been effective June 18, 2018. However, on May 24, 2018, the Government Operations Committee filed a 5-day stay; new effective date June 23, 2018. Amendments filed August 20, 2020; effective November 18, 2020.

**AMENDMENT**

**RULES**

**OF**

**THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-02**

**DISTRICT AND SCHOOL OPERATIONS**

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**0520-01-02-.17 STATE ENROLLMENT AND ATTENDANCE GUIDELINES.**

- (1) Children entering kindergarten shall be five (5) years of age on or before August 15. However, a child does not have to enroll in school at five (5) years of age, but enrollment must occur no later than the beginning of the academic year following the child's sixth (6th) birthday.
- (2) Any transfer student applying for admission who was legally enrolled in an approved kindergarten in another state and who will be five (5) years of age no later than December 31 of the current school year shall be enrolled.
- (3) Pursuant to the Tennessee compulsory attendance law, all children must attend school between the ages of six (6) and seventeen (17), both inclusive. T.C.A. §§ 49-6-3001 and 49-6-3005 provide that the following children may be exempt from the compulsory attendance law:
  - (a) Children mentally or physically incapacitated to perform school duties, with the disability attested to by a duly licensed physician in all cases;
  - (b) Children who have completed high school and hold a high school diploma or other certificate of graduation;
  - (c) Children enrolled in and making satisfactory progress in a course of instruction leading to a high school equivalency credential approved by the State Board of Education;
  - (d) Children participating in a program of hospital or homebound instruction administered or approved by the LEA;
  - (e) Children six (6) years of age or under whose parent or guardian have filed a notice of intent to conduct a home school as provided by T.C.A. § 49-6-3001 or who are conducting a home school as provided by T.C.A. § 49-6-3050;

- (f) Children enrolled in a home school who have reached seventeen (17) years of age; and
  - (g) Children who have attained their seventeenth (17th) birthday and whose continued compulsory attendance, in the opinion of the local board of education in charge of the school to which the children belong and are enrolled, results in detriment to good order and discipline and to the instruction of other students and is not of substantial benefit to the children.
- (4) Local boards of education may admit students from outside their respective local school district at any time.
- (a) Local boards of education may arrange for the transfer of students residing within their district to other school districts by establishing agreements with other local boards of education for the admission or transfer of students from one (1) school district to another.
  - (b) The receiving board of education may set a time before or during the school year after which it will not accept transfer students. The receiving board of education may charge the non-resident student tuition to attend.
  - (c) If a local board of education otherwise permits non-resident students to transfer into its schools, it may not discriminate against any students solely on the grounds of their race, sex, national origin, or disability, nor may it charge such students a tuition over and above the usual tuition for students without disabilities.
- (5) Each local board of education shall adopt an attendance policy in accordance with the State Board's School Attendance Policy 4.100 that is firm, but fair; includes effective accounting and reporting procedures; accounts for extenuating circumstances; includes appeal procedures; and establishes and maintains alternative programs for students who fail to meet minimum attendance requirements.
- (a) The policy shall address the excusing of absences in accordance with the State Board's School Attendance Policy 4.100.
  - (b) The policy shall address unexcused absences in accordance with the State Board's School Attendance Policy 4.100.
  - (c) The policy shall align with the McKinney-Vento Homeless Assistance Act [found at 42 U.S.C. §§ 11431, et seq.].
  - (d) Local attendance policies shall not be used to penalize students academically.
  - (e) The attendance policy adopted by the local board of education shall be posted at each school, and school counselors shall be supplied copies for discussion with students.
  - (f) The policy shall be referenced in all school handbooks. All teachers, administrative staff, and parents/guardians shall be provided copies of the policy.
- (6) Pursuant to T.C.A. § 49-6-3009, each local board of education shall adopt a progressive truancy intervention plan for students who violate compulsory attendance requirements prior to the filing of a truancy petition or a criminal prosecution for educational neglect. These interventions must be designed to address student conduct related to truancy in the school setting and minimize the need for referrals to juvenile court.
- (7) Whenever possible, attendance issues should be resolved at the school level. To ensure due process, local boards of education must adopt a policy that affords students with excessive (more than 5) unexcused absences the opportunity to appeal. Such policy must, at minimum, include written or actual notice to the student or their parent/guardian and the opportunity to be

heard. The burden of proof rests on the student or their parent/guardian. The appeal process for determining unexcused absences is ancillary to a truancy decision rendered by a juvenile court judge as described in T.C.A. § 49-6-3010.

- (8) LEAs are encouraged to develop truancy boards, youth courts, or other alternative programs to serve as an intervention for students with excessive absences. These may be in addition to, or a part of, the progressive truancy intervention plan required by T.C.A. § 49-6-3009.

**Authority:** T.C.A. §§ 49-6-3002, 49-6-3005, and 49-6-3009, Executive Order No. 14 of 2020 (and applicable, subsequent Executive Orders addressing COVID-19 relief), and Public Chapter 652 of 2020. **Administrative History:** (For history prior to June 1992, see pages iii through ix). Repeal filed March 16, 1992; effective June 29, 1992. New rule filed December 23, 2014; effective March 23, 2015. Emergency rules filed April 16, 2020; effective through October 13, 2020. Emergency rules expired effective October 14, 2020, and the rules reverted to their previous statuses. Amendments filed August 20, 2020; effective November 18, 2020.

**AMENDMENT**

**RULES  
OF  
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-02-06  
EMPLOYMENT STANDARDS**

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0520-02-06-.03	Employment Standards for Supervisors		

**0520-02-06-.03 EMPLOYMENT STANDARDS FOR SUPERVISORS.**

- (1) Supervisors of Instruction. A supervisor of instruction shall:
  - (a) Hold a valid Tennessee instructional leader license or professional administrator license; or
  - (b) Hold an advanced degree and a valid Tennessee teacher license with endorsement in the area for which they will be an instructional supervisor.
  
- (2) Special Education Supervisors. A supervisor of special education shall:
  - (a) Hold a valid Tennessee instructional leader license or professional administrator license and shall have three (3) years of experience with programs for children with disabilities; or
  - (b) Hold an advanced degree and a valid Tennessee teacher license with endorsement in at least one (1) area of special education and shall have three (3) years of experience with programs for children with disabilities.
  
- (3) Career and Technical Education (CTE) Directors. A CTE director shall:
  - (a) Hold an instructional leader license or a professional administrator license; or
  - (b) Hold a bachelor's degree with a major in career and technical education with:
    - 1. At least three (3) years of teaching experience in an approved CTE program; and
    - 2. At least two (2) years in an industry-related field.
  
- (4) School Nutrition Program Directors.
  - (a) School nutrition program directors hired on or after July 1, 2015, shall complete at least eight (8) hours of food safety training either not more than five (5) years prior to the employee's start date or within thirty (30) days of the employee's start date and shall meet the following criteria:
    - 1. School nutrition program directors employed by local education agencies (LEAs) with a student enrollment of 500 to 2,499 must meet one (1) of the following criteria:
      - (i) Bachelor's degree or equivalent educational experience with academic major in food and nutrition, food service management, dietetics, family and



- consumer sciences, nutrition education, culinary arts, business, or a related field;
- (ii) Bachelor's degree in any academic major and a School Nutrition Association Level 3 Certificate in School Nutrition;
  - (iii) A valid Tennessee teacher license with a school food service supervisor endorsement or a food production and management services endorsement;
  - (iv) Bachelor's degree in any academic major and at least one (1) year of relevant school nutrition experience;
  - (v) Associate's degree or equivalent educational experience, with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field and at least one (1) year of relevant school nutrition programs experience; or
  - (vi) High school diploma, or high school equivalency credential approved by the State Board, and at least three (3) years of relevant experience in school nutrition programs.
2. School nutrition program directors employed by LEAs with a student enrollment of 2,500 to 9,999 must meet one (1) of the following criteria:
- (i) Bachelor's degree or equivalent educational experience with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;
  - (ii) Bachelor's degree in any academic major and a School Nutrition Association Level 3 Certificate in School Nutrition;
  - (iii) A valid Tennessee teacher license with a school food service supervisor endorsement or a food production and management services endorsement;
  - (iv) Bachelor's degree in any academic major and at least two (2) years of relevant school nutrition experience; or
  - (v) Associate's degree or equivalent educational experience, with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field and at least two (2) years of relevant school nutrition programs experience.
3. School nutrition program directors employed by LEAs with a student enrollment of more than 10,000 must meet one (1) of the following criteria:
- (i) Bachelor's degree or equivalent educational experience with academic major in food and nutrition, food service management, dietetics, family and consumer sciences, nutrition education, culinary arts, business, or a related field;
  - (ii) Bachelor's degree in any academic major and a School Nutrition Association Level 3 Certificate in School Nutrition;

- (iii) A valid Tennessee teacher license with a school food service supervisor endorsement or a food production and management services endorsement; or
- (iv) Bachelor's degree in any academic major and at least five (5) years of experience in management of school nutrition programs.

**Authority:** T.C.A. §§ 49-1-302, 49-5-108, and 49-5-403. **Administrative History:** Original rules filed August 20, 2020; effective November 18, 2020.

**0520-02-06-.04 EMPLOYMENT STANDARDS FOR ADDITIONAL SUPPORT PERSONNEL.**

- (1) Educational Assistants. Educational assistants shall, at a minimum, have a high school diploma, high school equivalency credential approved by the State Board , and shall show demonstrable proficiency in reading and writing skills.
  - (a) Educational assistants who have completed one (1) or more years of college shall be given preference in employment.
  - (b) Educational assistants shall only be employed in non-teaching positions and shall be subject to direct supervision of licensed teachers when directly involved in the instructional program.
  - (c) If a licensed teacher to whom an educational assistant has been assigned is required to be absent from the classroom, the educational assistant may assume responsibility for the classroom in lieu of a substitute teacher. However, no educational assistant shall assume responsibility for the classroom for more than three (3) consecutive school days.
- (2) Educational Interpreters. All individuals employed by LEAs or charter schools to provide educational interpreting for students who are deaf, deaf-blind, or hard of hearing must hold a valid Tennessee School Services Personnel license with the appropriate endorsement or must meet the following employment standards:
  - (a) All non-licensed educational interpreters employed by an LEA or charter school prior to January 1, 2021, shall satisfy the following requirements by January 1, 2021:
    - 1. Obtain a passing score on the written portion of the Educational Interpreter Performance Assessment (EIPA); and
    - 2. Obtain a minimum score of 3.0 on the performance assessment portion of the EIPA.
  - (b) All non-licensed educational interpreters employed by an LEA or charter school on January 1, 2021 or after, shall satisfy the following requirements:
    - 1. Hold at a minimum an associate's degree;
    - 2. Obtain a passing score on the written portion of the EIPA; and
    - 3. Obtain a minimum score of 3.0 on the performance assessment portion of the EIPA.
  - (c) Compensation of non-licensed individuals providing educational interpreting shall be determined by the LEA or charter school and shall take into consideration the level of preparation, training, and work requirements.

**Authority:** T.C.A. §§ 49-1-302, 49-2-203, 49-2-301, 49-5-108, 49-5-111, 49-5-412, and 49-6-6006.

**Administrative History:** Original rules filed August 20, 2020; effective November 18, 2020. Amendments filed December 2, 2021; effective March 2, 2022.

**AMENDMENT**

**RULES  
OF  
THE STATE BOARD OF EDUCATION  
OFFICE OF THE COMMISSIONER**

**CHAPTER 0520-12-01  
STANDARDS FOR SCHOOL ADMINISTERED CHILD CARE PROGRAMS**

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**0520-12-01-.07 STAFF.**

- (1) All Programs shall be staffed with a director and enough teachers and staff to meet the required adult:child ratios.
- (2) Every staff person, including auxiliary staff, substitutes, volunteers, and practicum students, shall be physically, mentally, and emotionally capable of using the appropriate judgment for the care of children, and otherwise performing his/her duties satisfactorily. A person who has a physical, mental, or emotional condition which is in any way potentially harmful to children shall not be present with the children.
- (3) Every staff person, both paid and unpaid, shall be at least twenty-one (21) years of age in order to work in an early child care Program.
- (4) At least one (1) adult available on the premises at all times during Program operating hours shall be able to read and write English.
- (5) Prior to assuming duties, each new employee shall receive two (2) hours of orientation, and be able to explain the Program philosophy, emergency procedures, policies regarding discipline of children, policies regarding the reporting of child abuse, Sudden Infant Death Syndrome (SIDS), and policies for receiving and dismissing children.
- (6) Within the first two (2) weeks on the job and annually thereafter, each employee, including directors, teachers, substitutes, volunteers, and practicum students, shall receive annual instruction in:
  - (a) Child abuse detection, reporting, and prevention;
  - (b) Parent-center communication;
  - (c) Disease control and health promotion;
  - (d) An overview of certificate of approval requirements;
  - (e) Information on risks of infection to female employees of childbearing age;

- (f) Food allergies;
  - (g) Supervision during high risk activities such as eating and outdoor play;
  - (h) Meal service and safe food preparation policies;
  - (i) Shaken baby syndrome;
  - (j) Abusive head trauma;
  - (k) Safe sleep procedures;
  - (l) Developmentally appropriate practices; and
  - (m) Policies regarding discipline and supervision of children.
- (7) All training shall be documented in the Program’s records and be available for review by the Department’s staff at any time.
- (8) The Program must maintain written documentation that each employee has read the full set of all applicable rules. In addition, a copy of these rules shall be maintained in an area that is readily accessible to all staff.
- (9) Each Program location where children are present shall have an on-site director. The on-site director, with the guidance of the board or owner of the Program, shall be responsible for staff and the day-to-day operation of the Program. On-site directors shall meet the following criteria:
- (a) The on-site director of a Program shall be a full-time employee and shall be physically present in the Program’s facilities daily at least half of the total hours of operation.
  - (b) A director shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall meet at least one (1) of the minimum qualifications listed below:

Education level	Minimum experience required
Graduation from an accredited four-year (4 year) college.	One (1) year of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
Sixty (60) semester hours of college training, with at least thirty (30) hours of which shall be in business or management, child or youth development, early childhood education or related field.	Two (2) years of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)
High school diploma (or high school equivalency credential approved by the State Board), and Tennessee Early Childhood Training Alliance (TECTA) certificate for completing thirty (30) clock hours of orientation training, or the equivalent as recognized by the Department.	Four (4) years of full-time experience in a group setting. Experience may be paid or unpaid. (2 years school-age care experience = 1 year full-time experience)

Has been continuously employed as an on-site Program director or child care agency owner since July 1, 2000.	Not applicable.
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- (c) Within the first thirty (30) days of employment by a Program, a director shall complete an orientation provided by the Department of Education.
  - (d) Directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in administration management or supervisory training and six (6) hours shall be in developmentally appropriate literacy practices.
  - (e) If a director serves a dual role (e.g. an individual serving as the director and a teacher), the duties of each role shall be performed separately and not simultaneously.
- (10) Programs may employ an on-site assistant director. An assistant director or other staff member shall be designated to be in charge in the absence of the director and all staff shall be notified of this designation. On-site assistant directors shall meet the following criteria:
- (a) The on-site assistant director shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall have at least two (2) years of college training or a Department recognized credential and one (1) year of full-time or two (2) years of part time school- age care documented work experience (paid or un-paid) in a group setting; or
  - (b) The on-site assistant director shall be at least twenty-one (21) years of age and shall have earned a high school diploma or high school equivalency credential approved by the State Board and two (2) years of full-time or four (4) years of part time school-age care documented work experience (paid or unpaid) in a group setting.
  - (c) Within the first thirty (30) days of employment, assistant directors shall complete an orientation provided by the department of education child care program evaluator.
  - (d) Assistant directors shall complete at least thirty (30) hours of professional development, of which six (6) hours shall be in developmentally appropriate literacy practices and three (3) hours shall be in administration management or supervisory training.
- (11) All teachers and assistant teachers shall be at least twenty-one (21) years of age if hired after June 30, 2017 and shall meet the following criteria:
- (a) Before assuming teaching duties, teachers and assistant teachers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department. Pending completion of the orientation training, the teacher's employment status with the Program is conditional. Up to two (2) hours of training credit may be earned for Child and Adult Care Food Program (CACFP) training or USDA Free and Reduced Price Meal Program training.
  - (b) Full-time teachers and assistant teachers shall complete at least thirty (30) hours of professional development.
  - (c) At least six (6) hours of the required professional development shall be obtained outside of the Program. At least six (6) hours of the professional development shall be in developmentally appropriate literacy practices.
  - (d) Teachers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs.
- (12) Part-time teachers and teaching assistants shall meet the following criteria:

- (a) Prior to assuming duties, part-time teachers and assistant teachers shall complete two (2) clock hours of pre-service orientation training offered or recognized by the Department.
  - (b) Part-time teachers and assistant teachers shall complete at least fifteen (15) hours of professional development, of which three (3) shall be in developmentally appropriate literacy practices and three (3) shall be obtained outside of the Program.
  - (c) Part-time teachers shall be evaluated for knowledge and understanding of growth and development patterns of children and understanding of appropriate activities for children as well as those with special needs.
- (13) Substitute teachers shall meet the following criteria:
- (a) Substitutes shall comply with the same orientation requirements defined by these rules for all Program staff and shall be provided a classroom orientation prior to assuming duties.
  - (b) Substitutes who have acted as teachers for two hundred (200) or more hours in the previous calendar year shall meet the training requirements contained in the rules for part-time teachers.
  - (c) Auxiliary staff may be used as emergency substitutes if their qualifications permit, but not while performing auxiliary duties.
  - (d) Substitutes shall meet the criminal background check requirements and the same requirements as regular staff for the physical examination required by this Chapter.
  - (e) Practicum Students. Persons serving temporarily as teachers in field service placements as part of an educational course of study or other curriculum requirement shall not be considered as substitutes for purposes of this paragraph.
- (14) A volunteer is a person who provides services for a child care center without payment and who is used to supplement the regular staff or substitutes. Volunteers shall not be included in the adult:child ratios. The on-site director shall be responsible for and supervise the activities of volunteers to assure the safety of children.
- (15) All child care programs shall require any person employed in a position requiring proximity to children to:
- (a) Provide evidence of the following:
    1. Department of Health Vulnerable Persons Abuse Registry check;
    2. TBI/FBI Fingerprint and Background check;
    3. TBI/FBI Sex Offender Registry; and
  - (b) This evidence shall be obtained by the Program prior to employment.
  - (c) The Program shall immediately review the report of the background check received from the Tennessee Bureau of Investigation, and shall immediately consult with the Department to resolve any questions relative to the person's status. Upon determination that the person's status prohibits the person from having access to children as described in this Chapter, the Program shall immediately exclude such person from access to children. Failure to exclude the person under this part will result in immediate suspension of the Program's certificate of approval.

- (d) A new fingerprint sample must be obtained, for all employees, every five (5) years.
- (16) No individual with a prohibited criminal history as defined below may work, substitute or volunteer in a Program, be an owner, director or manager of a Program who has access to children, have significant contact with children or otherwise have unrestricted access to children in any manner whatsoever. An individual shall be immediately and automatically excluded from a Program or any contact whatsoever with children if the individual's criminal history includes:
- (a) A criminal conviction or a no-contest or guilty plea; or any pending criminal action, including individuals subject to any warrant, indictment or presentment, etc.; or placement in a pretrial diversion; or
  - (b) A pending juvenile action or previous juvenile adjudication, which, if an adult, would constitute a criminal offense; and
  - (c) Any of the circumstances in (a) or (b) above involves any of the following criminal offenses:
    - 1. Any offense (including a lesser included offense) involving the physical, sexual or emotional abuse or gross neglect of a child or involving a threat to the health, safety or welfare of a child;
    - 2. Any offense (including a lesser included offense) involving violence, or the threat of violence against another person; and/or
    - 3. Any offense (including a lesser included offense) involving, the manufacture, sale, distribution or possession of any drug.
- (17) An individual shall also be immediately and automatically excluded from the Program or from access in any manner whatsoever to the children in the care of the Program, if the individual:
- (a) Reveals a prohibited or potentially prohibited criminal history on the criminal history disclosure form;
  - (b) Is listed on the Department of Health's Vulnerable Persons Abuse Registry; or
  - (c) Is known to the Program as a perpetrator of child abuse or child sexual abuse or to have a prohibited criminal record, who is identified to the Program's management by the Department of Children's Services as a validated perpetrator of abuse of a child based upon an investigation conducted by the Department of Children's Services or by the child protective services agency of any other state; or, who at any time is identified by any person or entity to the Program's management and is confirmed by the Department as having a prohibited criminal history.
- (18) An individual with a prohibited history as set forth below shall be immediately and automatically excluded from providing driving duties on behalf of the Program if the individual:
- (a) Has a pending criminal action (including warrants, indictments, presentments, etc.) is completing pretrial diversion, or has been convicted of or pled guilty to any offense involving the use of a motor vehicle while under the influence of any intoxicant, which constitutes a violation of T.C.A. §§ 39-13-213; 55-10-101; 55-10-102 or 55-10-401; or
  - (b) Has been convicted of or pled guilty to any felony involving use of a motor vehicle while under the influence of any intoxicant. In such case, the individual shall not be employed or otherwise serve as a driver for a Program for a period of five (5) years from the date of the conviction or guilty plea.
- (19) An individual who has been identified by the Department of Children's Services as having neglected a child based on an investigation conducted by the Department of Children's Services, or any child




protective services agency of any state, and who has not been criminally charged or convicted or pled guilty as stated above, shall be supervised by another adult while providing care for children.

- (20) Any person who is excluded or whose certificate of approval or operator status is denied based upon the results of the criminal history background review or based upon any other determination may request in writing to the Department within ten (10) calendar days of receiving notice of such exclusion or denial, a waiver from these automatic exclusion requirements.
- (a) Requests for a waiver shall state the basis for the request, including any extenuating or mitigating circumstances that would, in the person's opinion, clearly warrant an exemption from the exclusion. Any documentary evidence may also be submitted with the request.
  - (b) Requests for waivers shall be heard by an advisory committee, composed, at a minimum, of law enforcement personnel, persons experienced in child protective services, persons experienced in child development issues and child care providers issued a certificate of approval by the Department and reviewed by the Department.
  - (c) Any person who is excluded from providing care or services to children under any provisions of this subchapter shall remain excluded pending the outcome of any exemption review and appeals.
- (21) The Department may, at any time, request that the criminal background status or the Department of Health's Vulnerable Persons Abuse Registry of any individuals having access to children under any of the circumstances set forth in this subchapter be reviewed using the processes described above.
- (22) The employment status of persons for whom a post-employment criminal background check was conducted, or the status of existing Program owners or operators, substitutes or volunteers of a Program for whom a criminal background check was conducted after issuance of a certificate of approval or after employment or assuming duties as a volunteer or substitute, and who were not otherwise subject to a pre-status applicant background check and to the exclusionary provisions provided in this subchapter, shall be governed by the provisions of this Chapter.

**Authority:** T.C.A. §§ 4-5-201, et seq.; 49-1-302(l); 49-1-1101 through 49-1-1109; 49-2-203; 49-5-413; 49-6-300; 49-10-608; and 71-3-507(g) and (h). **Administrative History:** Original rule filed September 26, 1990; effective December 29, 1990. Amendment filed April 30, 2002; effective July 14, 2002. Amendment repealing and replacing rule filed March 15, 2010; effective August 29, 2010. Amendments filed November 2, 2017; effective February 1, 2018. Amendments filed May 3, 2018; effective August 1, 2018. Amendments filed January 25, 2019; effective April 25, 2019.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 08/11/2023

Signature: 

Name of Officer: Angela C. Sanders

Title of Officer: General Counsel

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