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Sequence Number: 05-30-23
Notice ID(s): 3644-3646
File Date: 5/22/2023

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.

| | |
|---------------------------------|---|
| Agency/Board/Commission: | State Board of Education |
| Division: | N/A |
| Contact Person: | Angie Sanders |
| Address: | 500 James Robertson Parkway, 8th Floor, Nashville, TN 37243 |
| Phone: | (615) 253-5707 |
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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:

| | |
|---------------------|---|
| ADA Contact: | Angie Sanders |
| Address: | 500 James Robertson Parkway, 8th Floor, Nashville, TN 37243 |
| Phone: | (615) 253-5707 |
| Email: | 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 st Floor | | |
| City: | Nashville, TN | | |
| Zip: | 37243 | | |
| Hearing Date : | 07/13/2023 | | |
| Hearing Time: | 9:00 am | <input checked="" type="checkbox"/> CST/CDT | <input type="checkbox"/> EST/EDT |

Additional Hearing Information:

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| <p>**Anyone wishing to participate electronically may access the hearing using the following information:**</p> <p>URL: https://tn.webex.com/meet/educatorlicense.discipline</p> <p>Meeting number: 2302 647 6423</p> <p>Password: SBERules</p> <p>Phone: +1-415-655-0001</p> <p>Access Code: 2302 647 6423</p> <p>Please check the State Board's website at https://www.tn.gov/sbe/meetings.html for any additional information regarding this rulemaking hearing.</p> |
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Oral comments are invited at the hearing.
 In addition, written comments may be submitted via email at angela.c.sanders@tn.gov or mailed to:
 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 July 17, 2023** in order to ensure consideration.

*****Email comments are preferred as 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.

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-.33 | Fiscal Capacity Formula Review and Approval |

| Chapter Number | Chapter Title |
|----------------|---|
| 0520-01-03 | Academic and Instructional Requirements |
| Rule Number | Rule Title |
| 0520-01-03-.15 | Universal Student Screeners and State-Adopted Benchmark Assessments |

| Chapter Number | Chapter Title |
|----------------|---|
| 0520-02-03 | Educator Licensure |
| Rule Number | Rule Title |
| 0520-02-03-.09 | Denial, Formal Reprimand, Suspension and Revocation |

AMENDMENT/NEW

**RULES
OF
THE TENNESSEE DEPARTMENT OF EDUCATION
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-02
DISTRICT AND SCHOOL OPERATIONS**

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0520-01-02-.33 FISCAL CAPACITY FORMULA REVIEW AND APPROVAL.

- (1) The Tennessee Investment in Student Achievement (“TISA”) Act passed by the Tennessee General Assembly in 2022 established a new student-based funding formula for Tennessee public schools, beginning in the 2023-24 school year.
- (2) T.C.A. § 49-3-104 requires that the fiscal capacity formula be evaluated by the Comptroller of the Treasury and approved by the State Board. Additionally, Department of Education TISA Rule 0520-12-05-.08 provides that the Comptroller of the Treasury may make recommendations on any changes to the fiscal capacity formula to the State Board, and that the State Board shall establish a process and timeline for approval of the formulas.
- (3) The purpose of this Rule is to set forth the process and timeline for the State Board to approve the fiscal capacity formula after receipt of an evaluation of the formula from the Comptroller of the Treasury and any accompanying recommendations or considerations.
- (4) Review and Approval Process.
 - (a) Prior to the implementation of TISA in the 2023-24 school year, the State Board shall review the evaluation report of the fiscal capacity formula from the Comptroller of the Treasury, along with any recommendations or considerations from the Comptroller of the Treasury and approve the formula.
 - (b) The Comptroller of the Treasury shall conduct a new evaluation of the fiscal capacity formula and provide the evaluation report and any recommendations or considerations to the State Board no more than five (5) years from the date the formula was last approved. The evaluation report shall be submitted to the State Board on or before January 1 of the fifth (5th) year.

- (c) If the Comptroller of the Treasury's evaluation report includes recommendations or considerations regarding changes to the fiscal capacity formula, the evaluation report shall include:
1. A detailed description of the proposed change and the rationale for the proposed change;
 2. The expected fiscal or other impact of the proposed change on school districts and/or local governments;
 3. A detailed description of options to mitigate any negative fiscal impact to school districts and/or local governments, including, but not limited to the appropriation of additional state funding external to the TISA formula by the Tennessee General Assembly or the passage of legislation;
 4. Any methods for implementing the proposed change, and
 5. Any additional information the Comptroller of the Treasury determines will aid the State Board in evaluating the proposed change.
- (d) If the Comptroller of the Treasury's evaluation report includes recommendations or considerations regarding changes to the fiscal capacity formula, the State Board may approve the formula, with or without the change(s). The approval of any changes to the fiscal capacity formula that includes a request for an adjustment in state appropriations shall be done in consultation with the Department of Finance and Administration.
1. If changes to the formula are approved by the State Board, the Department shall incorporate the revised fiscal capacity estimates received from TACIR and CBER into preliminary TISA allocations provided to districts in the first fiscal year following adoption of the changes. For the second fiscal year following adoption of the changes, the Department shall incorporate revised fiscal capacity estimates into final TISA allocations provided to districts.
 2. The State Board may also place additional requirements on the implementation of any approved changes to the formula, including, but not limited to, the occurrence of certain conditions specified by the State Board or delayed implementation of changes beyond the timelines set forth in paragraph (4)(d)(1) of this Rule, according to a schedule specified by the State Board. If the State Board approves changes to the fiscal capacity formula contingent on additional state appropriations from the General Assembly external to the TISA formula, the approved changes shall not take effect pursuant to the schedule set forth in paragraph (4)(d)(1) of this Rule until such funds are appropriated by the General Assembly.
- (e) The State Board may request that the Comptroller of the Treasury evaluate potential changes to the fiscal capacity formula outside of the five (5) year cycle established above if the State Board receives a request from the Tennessee Advisory Commission on Intergovernmental Relations ("TACIR"), the Boyd Center for Business and Economic Research at the University of Tennessee ("CBER"), the TISA Review Committee, the Commissioner of Finance and Administration, both chairs of the Finance Ways and Means Committees of the Tennessee House and Senate, or the Commissioner of Education to undertake an off-cycle evaluation of changes to the fiscal capacity formula.

Requests shall be submitted to the Executive Director of the State Board (“Executive Director”).

1. A request to undertake an off-cycle evaluation of changes to the fiscal capacity formula submitted by TACIR or CBER shall include all information set forth in paragraphs (4)(c)(1) through (4) of this Rule and any additional information that would aid the State Board and the Comptroller of the Treasury in evaluating the proposed change. Requests that do not contain all of the required information will not be considered.
2. A request to undertake an off-cycle evaluation of changes to the fiscal capacity formula submitted by the TISA Review Committee, the Commissioner of Finance and Administration, both chairs of the Finance Ways and Means Committees of the Tennessee House and Senate, or the Commissioner of Education shall include a justification for the off-cycle review request and any information that would aid the State Board and the Comptroller of the Treasury in evaluating the request for the off-cycle evaluation and proposed change. Requests that do not contain all of the required information will not be considered.
3. After receipt of a complete request, the Executive Director shall conduct a review of the request and make a recommendation to the State Board. The Executive Director may recommend that the request for an off-cycle review be approved, denied, or that the request be considered by the Comptroller of the Treasury during the next scheduled five (5) year review.
4. If the State Board votes to request the Comptroller of the Treasury to conduct an off-cycle evaluation of proposed changes to the fiscal capacity formula, the Executive Director shall work with the Comptroller of the Treasury to determine an appropriate timeframe within which the evaluation of changes to the formula shall be submitted by the Comptroller of the Treasury to the State Board for review.
5. The Comptroller of the Treasury shall submit its evaluation of the proposed changes to the fiscal capacity formula to the State Board by the deadline agreed upon by the Executive Director and the Comptroller of the Treasury. The evaluation report shall include:
 - (i) A detailed description of the proposed change and the rationale for the proposed change;
 - (ii) The expected fiscal or other impact of the proposed change on school districts and/or local governments;
 - (iii) A detailed description of options to mitigate any negative fiscal impact to school districts and/or local governments, including, but not limited to, the appropriation of additional state funding external to the TISA formula by the Tennessee General Assembly or the passage of legislation;
 - (iv) Any methods for implementing the proposed change, and
 - (v) Any additional information the Comptroller of the Treasury determines will aid the State Board in evaluating the proposed change.

6. Upon receipt of the Comptroller's report evaluating the proposed change, the State Board may take no action on the report or may vote to approve the changes to the fiscal capacity formula. The approval of any changes to the fiscal capacity formula that includes a request for an adjustment in state appropriations shall be done in consultation with the Department of Finance and Administration.
 - (i) If changes to the formula are approved by the State Board, the Department shall incorporate the revised fiscal capacity estimates received from TACIR and CBER into preliminary TISA allocations provided to districts in the first fiscal year following adoption of the changes. For the second fiscal year following adoption of the changes, the Department shall incorporate revised fiscal capacity estimates into final TISA allocations provided to districts.
 - (ii) The State Board may also place additional requirements on the implementation of any approved changes to the formula, including, but not limited to, the occurrence of certain conditions specified by the State Board or delayed implementation of changes beyond the timelines set forth in paragraph (4)(e)(6)(i) of this Rule, according to a schedule specified by the State Board. If the State Board approves changes to the fiscal capacity formula contingent on additional state appropriations from the General Assembly external to the TISA formula, the approved changes shall not take effect pursuant to the schedule set forth in paragraph (4)(e)(6)(i) of this Rule until such funds are appropriated by the General Assembly.

Authority: T.C.A. §§ 49-3-104, 49-1-302, and 4-5-102. **Administrative History:**

AMENDMENT

**RULES
OF
THE STATE BOARD OF EDUCATION**

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

0520-01-03-.15 UNIVERSAL STUDENT SCREENERS AND STATE-ADOPTED BENCHMARK ASSESSMENTS.

- (1) Definitions. As used in this rule:
- (a) “Nationally Normed” means screener scores, classifications, and score distribution percentiles are reported and calibrated using a representative National Sample.
 - (b) “National Sample” means a sample of students that represents the population of U.S. students. For universal screeners, a national sample consists of at least one hundred fifty (150) students in each of at least three (3) of nine (9) U.S. Census Bureau divisions sampled before the year 2020. Part of completing the sample may include any needed statistical transformations required to achieve demographic representativeness. Such a sampling must be able to produce valid and reliable scores for classifying and identifying students.
 - (c) “Significant Reading Deficiency” means:
 - 1. A student in Kindergarten through grade three (K-3), who scores in the 15th percentile or below on a Nationally Normed Universal Reading Screener. Students in Kindergarten through grade three (K-3) who have a significant reading deficiency are considered below proficient in English language arts and shall be regarded as priority students for purposes of implementing the Tennessee Learning Loss Remediation and Student Acceleration Act.
 - (d) “At Risk for Significant Reading Deficiency” means:
 - 1. A student in Kindergarten through grade three (K-3), who scores between the 16th and 40th percentile on a Nationally Normed Universal Reading Screener. Students in Kindergarten through grade three (K-3) who are at risk for significant reading deficiency are considered below proficient in English language arts and shall be regarded as priority students for purposes of implementing the Tennessee Learning Loss Remediation and Student Acceleration Act.
 - (e) “Universal Reading Screener” means a uniform tool that screens and monitors a student's progress in foundational literacy skills of phonemic awareness, phonics, fluency, vocabulary, and comprehension.
 - (f) “Innovative Benchmark Assessment Pilot Program” means a program established, funded, and implemented by the Department as part of the Tennessee Learning Loss Remediation and Student Acceleration Act to provide the Tennessee universal math screener, the Tennessee Universal Reading Screener, and state-adopted benchmark assessments to LEAs and public charter schools to more frequently measure student learning and address student learning loss.
 - (g) “Pre-test” means a state-mandated assessment provided to students at the beginning of summer

programming required by the Tennessee Learning Loss Remediation and Student Acceleration Act to determine current knowledge on prioritized math and English language arts content.

- (h) "Post-test" means state-mandated assessment provided to students at the end of summer programming required by the Tennessee Learning Loss Remediation and Student Acceleration Act to determine knowledge gained on prioritized math and English language arts (ELA) content. The ELA portion of the third (3rd) grade assessment will be used to determine adequate growth for purposes of determining eligibility for promotion from third (3rd) to fourth (4th) grade beginning in the 2022-2023 school year.
 - (i) "Tennessee Literacy Success Act" means Tennessee Code Annotated ("T.C.A.") §49-1-901 et seq.
 - (j) "Tennessee Learning Loss Remediation and Student Acceleration Act" means T.C.A. §49-5-1501 et seq.
- (2) Pursuant to the Tennessee Literacy Success Act, each LEA and public charter school shall annually administer a Universal Reading Screener approved by the State Board of Education to each student in Kindergarten through grade three (K-3) during each of the three (3) administration windows established by the Department.
 - (3) Student performance on a Universal Reading Screener shall be used to identify students in Kindergarten through grade three (K-3) with a Significant Reading Deficiency or students who are At Risk for Significant Reading Deficiency. Students in Kindergarten through grade three (K-3) with a Significant Reading Deficiency or students who are At Risk for Significant Reading Deficiency are considered below proficient in English language arts and shall be regarded as priority students for purposes of implementing the Tennessee Learning Loss Remediation and Student Acceleration Act.
 - (4) Each LEA and public charter school's foundational literacy skills plan shall include the chosen Universal Reading Screener.
 - (5) All Universal Reading Screeners shall be Nationally Normed. LEAs and public charter schools may choose from the following Universal Reading Screener options:
 - (a) A Nationally Normed Tennessee Universal Reading Screener provided by the Department at no cost to LEAs and public charter schools;
 - (b) A Universal Reading Screener from an approved list of Nationally Normed Universal Reading Screeners identified by the Department and approved by the State Board in State Board Policy 3.302; or
 - (c) LEAs and public charter schools may request from the State Board approval to use a locally identified Universal Reading Screener. LEAs and public charter schools requesting approval from the State Board to use a locally identified Universal Reading Screener shall submit a revised foundational literacy skills plan to the Department by June 1 prior to the school year in which the LEA or public charter school wishes to use the locally identified screener. The request shall identify the Universal Reading Screener and provide written documentation outlining the evidence that the Universal Reading Screener meets the requirements identified in parts (1) through (6) below. The Department shall review each request and make recommendations to the State Board for approval by July 31 of each year. Each request shall provide proof, including technical reports and assessment specifications, that the Universal Reading Screener meets the following criteria:
 - 1. Is Nationally Normed;
 - 2. Complies with dyslexia screening requirements established in T.C.A. § 49-1-229;

3. Complies with the universal screening norms and identification requirements established in Tennessee's RTI² framework manual;
 4. Produces scores that meet the Department's criteria to reliably and validly identify students with a Significant Reading Deficiency or students who are At Risk for Significant Reading Deficiency, identifies priority students for purposes of implementation of the Tennessee Learning Loss Remediation and Student Acceleration Act, and can measure student growth from one (1) administration window to another;
 5. Produces results that allow for the reliable generation of individual growth scores for teachers teaching pre-Kindergarten through grade two (pre-K-2) to use as an alternative growth model in accordance with the Tennessee Literacy Success Act and the Tennessee Learning Loss Remediation and Student Acceleration Act; and
 6. Provides a full dataset of student and educator data that can be submitted electronically to the Department three (3) times a year in a manner that complies with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), T.C.A. § 10-7-504, the Data Accessibility, Transparency and Accountability Act (Title 49, Chapter 1, Part 7), and all other applicable state and federal privacy laws in a format that meets the Department's data standard.
- (d) All Universal Reading Screeners approved by the State Board for use by LEAs and public charter schools shall be listed in State Board Policy 3.302. A Universal Reading Screener may be removed from the approved list in State Board Policy 3.302 by the State Board if the Universal Reading Screener does not continue to meet the requirements set forth in paragraphs (5)(c)1. – 6. of this Rule, or the Tennessee Literacy Success Act, such that any LEA or public charter school that utilizes the Universal Reading Screener is unable to maintain compliance with the Literacy Success Act.
1. After every administration of the Universal Reading Screener, the Department shall send written notice to any LEA or public charter school that is out of compliance with this rule or the Tennessee Literacy Success Act due to use of a Universal Reading Screener that does not comply with the requirements set forth in paragraphs (5)(c)1. – 6. of this Rule. The notice shall:
 - (i) Clearly state that the LEA or public charter school's vendor is out of compliance with this rule or the Tennessee Literacy Success Act;
 - (ii) Outline the reasons for non-compliance; and
 - (iii) State that failure to remedy the non-compliance by the deadline set by the Department may result in a recommendation to the State Board to remove the Universal Reading Screener from the approved list based on such non-compliance.
 2. The notice shall also be sent to the Universal Reading Screener vendor and the chair of the State Board. LEAs and public charter schools that receive a notice of non-compliance from the Department shall work with their Universal Reading Screener vendor to remedy the non-compliance with this rule and the Tennessee Literacy Success Act.
 3. If the Universal Reading Screener vendor does not come into compliance by the deadline set by the Department, and the LEA or public charter school continues to be out of compliance with this rule or the Tennessee Literacy Success Act due to the use of a non-compliant Universal Reading Screener, the Department may bring a recommendation to

the State Board that the Universal Reading Screener be removed from the approved list in State Board Policy 3.302. The recommendation shall provide specific information to the State Board regarding the non-compliance, including, but not limited to:

- (i) A list of LEAs and public charter schools that use the Universal Reading Screener that is being recommended for removal from the approved list;
- (ii) A copy of the non-compliance notice that was provided to the LEA or public charter school and Universal Reading Screener vendor by the Department;
- (iii) Data comparing the performance of the Universal Reading Screener vendor as compared to other State Board-approved Universal Reading Screener vendors, including, but not limited to the number of accurate and inaccurate data sets submitted by each approved vendor out of the total required data sets within the required window, whether all data sets were submitted for each LEA or public charter school by each approved vendor, and the number of errors in the data sets provided by each approved vendor; and
- (iv) Any additional information requested by the State Board regarding the non-compliance and reasons supporting the recommendation for removal of the Universal Reading Screener from the approved list, provided such information is available to the Department.

4. The Universal Reading Screener vendor, any LEA and/or any public charter school may request to speak at the Board meeting when the recommendation is presented by providing notice to the State Board in compliance with State Board Policy 1.400.
5. The Board may vote to remove the Universal Reading Screener vendor from the approved list, to keep the Universal Reading Screener on the approved list, or to defer the vote to a later date.
6. The Department shall create and post on its website a Universal Reading Screener data guide which may include a technical manual, data dictionary, and/or data submission template to support LEAs, public charter schools, and State Board-approved Universal Reading Screener vendors to maintain accurate and timely submissions of data in accordance with this rule and the Tennessee Literacy Success Act.

- (6) Approved Universal Reading Screeners may be used by LEAs and public charter schools to comply with dyslexia screening requirements established in T.C.A. § 49-1-229 and with the universal screening requirements established in Tennessee's RTI² framework manual.
- (7) LEAs and public charter schools may need to find an alternate tool to measure reading proficiency if a student has a documented disability in an Individualized Education Program (IEP) or section 504 plan that indicates the student has a language or physical barrier to using one (1) of the approved Universal Reading Screeners outlined in paragraph (5) of this rule.
- (8) Each LEA and public charter school shall submit electronically to the Department the full dataset for each Universal Reading Screener administered to students three (3) times per school year. All student information must be maintained in accordance with the Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g), T.C.A. § 10-7-504, the Data Accessibility, Transparency and Accountability Act (Title 49, Chapter 1, Part 7) and all other applicable state and federal privacy laws in a format that meets the Department's data standard.
- (9) LEAs and public charter schools may choose to administer a Universal Reading Screener to pre-Kindergarten students.

- (10) The Department shall implement an Innovative Benchmark Assessment Pilot Program pursuant to the Tennessee Learning Loss Remediation and Student Acceleration Act to provide the Tennessee Universal Reading Screener, the Tennessee universal math screener, and state-adopted benchmark assessments to LEAs and public charter schools to more frequently measure student learning and address student learning loss.
- (11) Pursuant to the Tennessee Learning Loss Remediation and Student Acceleration Act, LEAs and public charter schools may use the state-adopted benchmark assessments, the Tennessee universal math screener, the Tennessee Universal Reading Screener, or a Universal Reading Screener approved by the State Board to identify priority students for after-school learning mini-camps, learning loss bridge camps, and summer learning camps.
- (a) For grades Kindergarten through three (K-3), the Tennessee Universal Reading Screener provided by the Department, the Tennessee universal math screener provided by the Department, or a Universal Reading Screener approved by the State Board shall serve as the state-adopted benchmark assessments required to be used by LEAs and public charter schools to identify priority students for after-school learning mini-camps, learning loss bridge camps, and summer learning camps
- (b) For grades four (4) through nine (9), a locally adopted benchmark assessment approved by the Department for use by the LEA or public charter school shall serve as the state-adopted benchmark assessments used by LEAs and public charter schools in implementing the Tennessee Learning Loss Remediation and Student Acceleration Act. Each LEA or public charter school shall request from the Commissioner of Education approval to use locally adopted benchmark assessments as the state- adopted benchmark assessment. Each request shall include:
1. The name of each locally adopted benchmark assessment requested for use; and
 2. The performance category for each locally adopted benchmark assessment that the LEA or public charter school will use to identify priority students, to implement the Tennessee Learning Loss Remediation and Student Acceleration Act.
- (c) Any student in Kindergarten through grade three (K-3) scoring in the 40th percentile or below on a Nationally Normed universal math screener shall be considered below proficient in math and regarded as a priority student for purposes of implementing the Tennessee Learning Loss Remediation and Student Acceleration Act.
- (12) Pursuant to the Tennessee Learning Loss Remediation and Student Acceleration Act, LEAs and public charter schools shall use the state-provided pre- and post-test to monitor student growth in summer programming during the summer of 2021 and every summer thereafter.

Authority: T.C.A. §§ 49-1-901, et seq. and 49-6-1501, et seq. **Administrative History:** Emergency rule filed May 27, 2021; effective through November 23, 2021. New rule filed August 5, 2021; effective November 3, 2021. Amendments filed April 25, 2022; effective July 24, 2022.

AMENDMENT
RULES
OF
THE STATE BOARD OF EDUCATION

CHAPTER 0520-02-03
EDUCATOR LICENSURE

0520-02-03-.09 DENIAL, FORMAL REPRIMAND, SUSPENSION AND REVOCATION.

(1) Definitions:

- (a) Conviction – Means a judgment entered by a court upon a plea of guilty, a plea of nolo contendere, a finding of guilt by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. Conviction includes, but is not limited to, a conviction by a federal court or military tribunal, including a court-martial conducted by the armed forces of the United States, and a conviction, whether upon a plea of guilty, a plea of nolo contendere, or a finding of guilt by a jury or the court, in any other state of the United States, other jurisdiction, or other country. Conviction also includes a plea taken in conjunction with Tennessee Code Annotated (“T.C.A.”) § 40-35-313 or its equivalent in any other jurisdiction.
- (b) Dismissed – With regard to employment action taken by an employing public or non-public school or school system, dismissed means the termination of a licensed educator’s employment with the school or school system or non-renewal of the educator’s contract.
- (c) Formal Reprimand – A less harsh licensing action than the suspension, revocation, or denial of a license, which admonishes an educator for certain conduct under this rule. An educator who has been reprimanded by the State Board of Education (“State Board”) under this Rule shall receive a letter from the State Board, which shall become part of the educator’s state record and may become part of the educator’s local record, indicating that the inappropriate conduct is discouraged and shall be subject to further disciplinary action if repeated.
- (d) Inappropriate Communication (Explicit) – Any communication between an educator and a student that describes, represents, or alludes to sexual activity or any other illegal activity. This includes, but is not limited to, communication defined as sexual misconduct under T.C.A. § 49-5-417, communication defined as sexually related behavior under T.C.A. § 49-5-1003(b)(15), and communication that would encourage illegal activity such as encouraging the use or purchase of illegal substances. This shall not be construed to prevent an educator from communication regarding sexual or illegal activities for educational purposes such as in teaching family-life curriculum pursuant to T.C.A. §§ 49-6-1307 et seq. or drug abuse resistance education pursuant to T.C.A. § 49-1-402 or to prevent an educator from upholding the educator’s obligation as a mandatory reporter of child abuse, neglect, or child sexual abuse.
- (e) Inappropriate Communication (Non-Explicit) – Any communication between an educator and a student that is beyond the scope of the educator’s professional responsibilities. Examples of such non-explicit inappropriate communications include, but are not limited to, those communications that discuss the educator’s or student’s past or current romantic relationships; those that include the use of profanities or obscene language; those that are harassing, intimidating, or bullying; those that attempt to establish an inappropriate personal relationship with a student; and those that are related to personal or confidential information regarding another school staff member or student.

- (f) Inappropriate Physical Contact – Unlawful and/or unjustified physical contact with a student. Examples of such inappropriate physical contact include, but are not limited to, sexual contact, physical altercations, horseplay, tickling, improper use of corporal punishment, improper restraint or isolation of a student receiving special education services, and rough housing.
- (g) Inappropriate Physical Contact with Harm – Inappropriate physical contact as described in subparagraph (f) above that results in physical or mental harm.
- (h) Negligence – Failure to exercise the care toward others that a reasonable or prudent person would exercise under the circumstances or taking action that a reasonable person would not. Examples of such negligence include, but are not limited to, situations that expose students to mental or physical harm or the potential for mental or physical harm such as leaving dangerous items in the classroom or in areas easily accessible to students and leaving students unattended.
- (i) Non-Compliance with Security Guidelines for State-Mandated Test, TCAP or Successor Test– Any person found to have not followed security guidelines for administration of a state-mandated test, the TCAP or a successor test, including but not limited to, making or distributing unauthorized photos or copies of the test, altering a grade or answer sheet of student responses or answers, providing copies or photos of answers or test questions to students or others, and otherwise compromising the integrity of the testing process (which includes, but is not limited to, providing unauthorized assistance to students during administration of testing).
- (j) Official School Business – Any activity undertaken by an educator in an official capacity and in connection with the educator’s employment. Examples include, but are not limited to, conferences, professional development, trainings, and seminars.
- (k) Other Good Cause – Conduct that calls into question the fitness of an educator to hold a license including, but not limited to, violation of any provision in the Teacher Code of Ethics as contained in T.C.A. §§ 49-5-1001, et seq.
- (l) Permanent Revocation – The nullification of an educator’s license without eligibility for future restoration. Permanent revocation also includes the voluntary permanent surrender of an educator’s license without eligibility for future restoration.
- (m) School Premises – Any real property and/or land owned, leased, managed, controlled, or under the custody of a state or local education agency, school system, or school.
- (n) School Property – Any property owned, leased, managed, controlled, or under the custody of a state or local education agency, school system, or school.
- (o) School Related Activity – Any activity in which a student participates, including but not limited to classes, meetings, extracurricular activities, clubs, athletics, and field trips, sponsored by the school, state educational agency, or local educational agency.
- (p) Suspension – With regard to licensure action by the State Board, suspension means the nullification of an educator’s license for a predetermined term, after which the license may be reinstated. Reinstatement shall be subject to the completion of any terms and conditions contained in the order of suspension. With regard to employment action taken by a public or non-public school or school district, suspension means the temporary removal of an educator from his or her regular duties with or without pay. Suspension also includes the placement of an educator on administrative leave pending investigation into allegations of

misconduct.

- (q) Revocation— The nullification of an educator’s license for a period of at least five (5) years, after which an educator may petition the State Board for restoration under paragraph (7)(b). Revocation also includes the voluntary surrender of an educator’s license for a period of at least five (5) years, after which an educator may petition the State Board for restoration under paragraph (7)(b). A shorter period of revocation may be specified as provided for in paragraph (5)(e) of this rule, allowing an educator to apply for restoration earlier than five (5) years from the date of revocation.

(2) Notification to the State Board of Education.

- (a) Licensed Educators - It is the responsibility of the Director of Schools of the employing public or non-public school or school district or Director of a public charter school (“Director”) to report to the State Board licensed educators who have been suspended or dismissed, or who have resigned, following allegations of misconduct, including sexual misconduct, which, if substantiated, would warrant consideration for license suspension, revocation, or formal reprimand under this rule. The report shall be submitted within thirty (30) days of the suspension, dismissal, or resignation. The Director shall also report felony convictions and convictions for any offense listed in paragraph 4(a) of this rule of licensed educators within thirty (30) days of receiving knowledge of the conviction or within thirty (30) days of receiving knowledge that the educator has met other conditions in paragraph 4(a) of this Rule. The Director shall also report individuals employed by the public or non-public school or district with an expired license who are convicted of any offense listed in paragraph 4(a) of this Rule or who meet any of the conditions in paragraph (4)(a) of this Rule, within thirty (30) days of receiving knowledge of the individual’s conviction or that the individual has met other conditions in paragraph 4(a) of this Rule. Schools and school districts have a duty to respond to State Board inquiries and provide to the State Board, except when prohibited by law, any available documentation requested concerning the allegations contained in the report. If the State Board receives information regarding a licensed educator who was not reported as described in this paragraph, and such information, if substantiated, would warrant licensure action under this rule, the State Board reserves the right to place the educator’s license file in the state’s educator licensure database (TN Compass) under review.
- (b) Educators Teaching on a Temporary Permit – Directors shall report individuals teaching on a temporary permit to the State Board under the same conditions outlined in the above paragraph (2)(a). Schools and school districts have a duty to respond to State Board inquiries and provide to the State Board, except when prohibited by law, any available documentation requested concerning the allegations contained in the report. If the State Board receives information regarding an individual teaching on a permit who was not reported as described in this paragraph, and such information, if substantiated, would warrant disciplinary action under this rule, the State Board reserves the right to place an individual’s file under review in the state’s educator licensure database (TN Compass).
- (c) Penalty for Failure to Report – If a Director holds an active educator license, then the State Board may formally reprimand or suspend the Director’s license for failure to make a report as required by paragraphs (2)(a)-(b) of this Rule or State law. If the State Board issues a formal reprimand or suspends a Director’s educator license for the Director’s failure to make a required report, then the State Board shall send notice of the license action to the local board of education, charter school governing body, or non-public school governing body, as applicable. The State Board may issue a public reprimand if a Director who does not hold an active educator license fails to make a report as required by paragraphs (2)(a)-(b) of this Rule or State law. If the State Board issues a public reprimand to an unlicensed

Director, the State Board shall send a copy of the public reprimand to the Director and to the local board of education, charter school governing body, or non-public school governing body, as applicable.

(3) The State Board may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license or may refuse to issue a temporary permit for any of the following reasons:

- (a) Conviction of a felony;
- (b) Conviction of possession of illegal drugs;
- (c) Being on school premises, school property, at a school-related activity involving students, or on official school business, while possessing, consuming, or under the influence of alcohol or illegal drugs;
- (d) Falsification or altering of a license or permit or documentation required for licensure or permit;
- (e) Inappropriate physical contact with a student;
- (f) Failure to report as required under paragraph (2);
- (g) Noncompliance with security guidelines for state-mandated tests, and/or TCAP or successor test;
- (h) Denial, formal reprimand, suspension, or revocation of a license or certificate in another jurisdiction for reasons which would justify denial, formal reprimand, suspension, or revocation under this rule;
- (i) Other good cause as defined in subparagraph (1)(k) of this rule; or
- (j) Any offense contained in paragraphs (4) and/or (5) of this rule.

(4) Automatic Revocation and Suspension.

(a) Automatic Revocation of License – The State Board shall automatically revoke or automatically permanently revoke, without the right to a hearing, the license of an educator for the following:

1. Upon receiving verification of the identity of the licensed educator together with a certified copy of a criminal record showing that the licensed educator has been convicted of any of the following offenses (including, but not limited to, conviction for the same or similar offense in any jurisdiction). Educators whose conviction includes a plea taken in conjunction with T.C.A. § 40-35-313 and such conviction is eligible for expungement under T.C.A. § 40-35-313, or its equivalent in any other jurisdiction, shall not be subject to automatic permanent revocation.

- (i) Upon receiving verification of the identity of Communicating a threat concerning a school employee, as described in T.C.A. § 39-13-114;
- (ii) Statutory rape by an authority figure, as described in T.C.A. § 39-13-532;
- (iii) Arson or aggravated arson, as described in T.C.A. § 39-14-301 and § 39-14-302;
- (iv) A burglary offense, as described in T.C.A. § 39-13-1001 - § 39-13-1004;

- (v) Child abuse, child neglect, or child endangerment, as described in T.C.A. § 39-15-401;
 - (vi) Aggravated child abuse, aggravated child neglect, or aggravated child endangerment, as described in T.C.A. § 39-15-402;
 - (vii) Providing handguns to juveniles, as described in T.C.A. § 39-17-1320;
 - (viii) A sexual offense or a violent sexual offense, as described in T.C.A. § 40-39-202;
 - (ix) A felony offense in T.C.A. title 39, chapter 13;
 - (x) A felony offense in T.C.A. title 39, chapter 17, part 13; or
 - (xi) Any offense listed in T.C.A. § 39-17-417 or § 40-35-501(i)(2);
2. Being identified by the Department of Children’s Services (“DCS”) or similar agency in another jurisdiction, after having exhausted or waived all due process rights available to the licensed educator, as having committed child abuse, severe child abuse, child sexual abuse, or child neglect as stated in T.C.A. § 49-5-413, or similar laws in another jurisdiction;
 3. The licensed educator’s name being placed on the state’s vulnerable person’s registry or the state’s sex offender registry, or similar registries in another jurisdiction; or
 4. Receiving verification of the identity of the licensed educator together with a certified copy of a court order, settlement agreement, or plea agreement in a criminal, civil, or administrative action requiring the educator to surrender the educator’s Tennessee license. Unless otherwise stated in the court order, settlement agreement, or plea agreement, the educator may apply for restoration after five (5) years from the date of revocation, in accordance with applicable state law and this Rule.
- (b) Educators who are subject to automatic revocation for reasons set forth in paragraph (4)(a)2 or (4)(a)3 of this Rule shall have their license automatically permanently revoked.
 - (c) The State Board shall send notice to educators whose licenses are subject to automatic revocation or automatic permanent revocation at least thirty (30) days prior to the board meeting at which such revocation shall occur, using the educator’s contact information in the State of Tennessee’s educator licensure database (TN Compass) as required by paragraph (10) of this Rule.
 - (d) Automatic Suspension of License –The State Board shall automatically suspend, without the right to a hearing, the license of an educator upon receiving notice from the Tennessee Department of Human Services or other responsible state agency that an educator has failed to comply with an order of support for alimony or child support, pursuant to T.C.A. § 36-5-706, together with notification that the educator has been afforded all notices and due process, including the right to request a hearing with the Tennessee Department of Human Services or other responsible state agency as required by the Tennessee Department of Human Services or other responsible state agency’s governing statutes and rules.

- (e) The State Board shall send written notice to educators whose licenses are subject to automatic suspension at least thirty (30) days prior to the board meeting at which such suspension shall occur, using the educator's contact information in the State of Tennessee's educator licensure database (TN Compass) as required by paragraph (10) of this rule.
- (f) Upon receipt of notice from the Tennessee Department of Human Services or other responsible state agency that the educator has come into compliance after automatic suspension for one (1) of the offenses set forth in subparagraph (d), the State Board staff shall reinstate the license of the educator.
- (g) Expired Licenses, Prohibition on Reactivation – If the State Board receives verification of the identity of an individual with an expired license who would qualify for automatic revocation under paragraph (4)(a) of this Rule if the individual possessed an active educator license, the State Board shall take action to prohibit the individual from applying to reactivate the expired license.
 - 1. The State Board shall send written notice to individuals who will be prohibited from applying to reactivate an expired license at least thirty (30) days prior to the board meeting at which such action shall occur, using the educator's contact information in the State of Tennessee's educator licensure database (TN Compass) as required by paragraph (10) of this Rule.
 - 2. The State Board shall send notice of an action taken pursuant to subparagraph (g) to the national clearinghouse administered by the National Association of State Directors of Teacher Education and Certification (NASDTEC).

(5) Disciplinary Actions.

- (a) For the following categories of offenses, the State Board may impose disciplinary action upon its findings as detailed below:
 - 1. Conviction of a felony.
 - (i) Upon receiving notification that an individual has been convicted of a felony, the individual shall be subject to disciplinary action within the range of a suspension of not less than two (2) years up to and including permanent revocation of the convicted individual's educator license.
 - 2. Conviction of a misdemeanor where the victim is a student and/or a minor.
 - (i) Upon receiving notification that an individual has been convicted of a misdemeanor where the victim is a student and/or a minor, the individual shall be subject to disciplinary action within the range of a suspension of not less than six (6) months up to and including revocation of the convicted individual's educator license.
 - 3. Use, possession, or under the influence of alcohol or illegal substances.
 - (i) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol, or illegal substances while on school premises or property when children are present shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.
 - (ii) An individual holding an educator's license who is found to be in

possession of, consuming, or under the influence of alcohol, or illegal substances while on school premises or property without children present shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.

- (iii) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol or illegal substances while not on school premises or property, but while participating in school related activities with children present, shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.
- (iv) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol or illegal substances while not on school premises or property, but participating in school related activities without children present, shall be subject to a disciplinary action within the range of suspension for not less than six (6) months up to and including a two (2) year suspension.

4. Negligence in the commission of duties as an educator.

- (i) An individual holding an educator's license who is found to be negligent in his or her commission of duties as an educator in such a manner that does not result in harm to a child, but presented the potential for physical or mental harm, shall be subject to a disciplinary action within the range of a letter of formal reprimand up to and including a two (2) year suspension.
- (ii) An individual holding an educator's license who is found to be negligent in their commission of duties as an educator in such a manner that results in harm to a child, shall be subject to a disciplinary action within the range of suspension for no less than one (1) year up to and including permanent revocation.

5. Noncompliance with security guidelines for state-mandated test, TCAP, or successor test.

- (i) An individual holding an educator's license who is found to have been noncompliant with security guidelines for a state-mandated test, TCAP, or successor test shall be subject to a disciplinary action within the range of a letter of formal reprimand up to and including revocation.

6. Unprofessionalism.

- (i) An individual holding an educator's license who is found to have engaged in non-explicit inappropriate communication with a student shall be subject to a disciplinary action within the range of a suspension for no less than three (3) months up to and including revocation.
- (ii) An individual holding an educator's license who is found to have engaged in inappropriate communication of an explicit nature with a student shall be subject to permanent revocation.
- (iii) An individual holding an educator's license who is found to have inappropriately used school property shall be subject to a disciplinary

action within the range of a suspension for no less than three (3) months up to and including revocation.

7. Inappropriate Physical Contact.

(i) An individual holding an educator's license who is found to have engaged in inappropriate physical contact with a student that does not result in harm or potential harm to the student shall be subject to a disciplinary action within the range of a formal reprimand up to and including suspension for two (2) years.

(ii) An individual holding an educator's license who is found to have engaged in inappropriate physical contact with a student that results in harm or potential harm to the student shall be subject to a disciplinary action within the range of a suspension for not less than two (2) years up to and including permanent revocation.

8. Falsification of Licensure Documentation.

(i) An individual holding an educator's license who is found to have falsified licensure documentation shall be subject to a disciplinary action within the range of revocation or permanent revocation.

9. Violation of the Teacher Code of Ethics.

(i) An individual holding an educator's license who is found to have violated the Teacher Code of Ethics contained in T.C.A. Title 49, Chapter 5, Part 10 shall be subject to a disciplinary action within the range of a formal reprimand up to and including revocation.

(b) Similar Offenses – Actions related or similar to the above-enumerated offenses in paragraphs (3), (4), and (5)(a) shall carry recommended disciplinary action commensurate with the range established for the similar offense. The State Board may take action against an educator's license for any similar offense occurring in another state in the United States, other jurisdiction, or other country, if the conduct would justify action under Tennessee law or this rule.

(c) Reasonable Force – Nothing in this part shall prevent an educator from exercising his or her lawful authority to use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person pursuant to T.C.A. § 49- 6- 4107.

(d) Repeated Violations – Individuals holding an educator's license who are subject to multiple disciplinary actions by the State Board shall face disciplinary action in excess of the recommended ranges. A third violation, regardless of severity, shall be subject to a recommendation of revocation.

(e) Discipline Range – Nothing in this rule shall prohibit the State Board from imposing a disciplinary action outside of the uniform discipline range upon good cause shown.

(f) Eligibility for Employment during Review – The notation on an individual's educator licensure database file (TN Compass) that an educator's license is under review by the State Board is not a disciplinary action under this rule and does not prohibit a licensed educator from being employed by a school or school system, as that educator still has an active license. An individual with a notation on their educator licensure database file (TN

Compass) that their educator license is under review by the State Board shall continue to be responsible for completing any requirements for renewal or advancement of their license during the period of time that the individual's educator license is under review, because the license remains active.

(6) Issuance of Temporary Permits.

(a) The Commissioner of Education ("Commissioner") may grant, on behalf of the State Board, under conditions outlined in T.C.A. § 49-5-106(a)(1), State Board Rule 0520-02-03-.12 and this rule, a temporary permit to an unlicensed individual to teach in an unfilled position, which permit shall be valid only until June 30 following the date of issuance.

1. The permit application of any individual who indicates an affirmative answer on the personal affirmation section of the application shall be sent by the Commissioner to the State Board for review in accordance with this rule for a determination of whether the permit may be issued by the Commissioner. If an individual indicates an affirmative answer on the personal affirmation section of the application for a permit, the individual shall show cause why the permit should be issued despite the individual's affirmative answers. Issuance of a permit is considered on a case-by-case basis and the burden of proof rests with the individual applying for the permit. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Additionally, an application for issuance of a permit may be denied if an action against the individual's license has been taken or is pending in this state or another state.
2. There shall be a rebuttable presumption that any individual applying for a permit who has committed an offense that would subject him or her to discipline under this rule if the individual had a license, shall be presumed ineligible to receive a permit.
3. An individual shall meet the requirements set forth in this rule and State Board Rule 0520-02-03-.12 for each issuance of a permit.
4. If an individual teaching on a permit issued by the Commissioner is reported by a Director as described above in paragraph (2) and the misconduct, if substantiated, would warrant disciplinary action under this rule if the individual had a license, the State Board may direct the Commissioner not to issue a subsequent permit upon expiration of the individual's current permit pursuant to T.C.A. § 49-5-106(a).
5. Case Review.
 - (i) State Board counsel shall present an initial recommendation regarding granting or denying a permit application to the case review committee consisting of State Board staff who shall review the entire file to determine whether to recommend issuance of a permit or denial of an application for a permit, or in the case of an individual reported by a Director as described above in paragraph (2), whether to direct the Commissioner not to issue any subsequent permits to the individual. The case review committee may also determine that additional investigation is necessary before a recommendation can be made.
 - (ii) If the case review committee recommends that the State Board direct the Commissioner to deny an application for a permit or not to issue any subsequent permits to the individual under this rule, the recommendation

will be presented to the State Board at a regularly scheduled State Board meeting. State Board counsel will notify the individual of the recommendation and the State Board's policy regarding requests to speak at State Board meetings.

6. If an individual has had an application for a permit denied by the Commissioner, the individual must indicate such on any future application for an educator license or permit in Tennessee.

(7) Reinstatement or Restoration of a License.

(a) Reinstatement.

1. An individual whose license has been suspended under this rule may have his or her educator license reinstated after the period of suspension has been completed, and, where applicable, the individual has presented proof of compliance with all terms and conditions prescribed by the State Board in the order of suspension. Suspended licenses are subject to the expiration and renewal rules of the State Board. A suspended license may not be reinstated if an action has been taken or is pending against the educator's license in another state.

(b) Restoration.

1. An individual whose license has been revoked under this Rule may apply to the State Board to have the license restored upon application showing that the cause for revocation no longer exists and that the person has complied with any terms and conditions imposed in the order of revocation. To show the cause no longer exists, the individual shall show cause why the license should be restored despite the misconduct that resulted in the individual's license being revoked. The individual shall provide evidence of rehabilitation and fitness to perform the duties authorized and required by the license sought. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Application for such restoration shall be made to State Board counsel in accordance with State Board License Reinstatement and License Restoration Applications Policy 5.500.
2. An individual whose license has been revoked under this rule shall not be eligible to reapply for licensure for a period of no less than five (5) years from the time at which the license was initially revoked, unless a shorter period of time is specified in the order of revocation pursuant to paragraph (5)(e) of this Rule. An individual whose license has been permanently revoked shall not be eligible to reapply for licensure.
3. In any deliberation by the State Board to restore a license that has been revoked, there shall be a rebuttable presumption that an individual whose license has been revoked is unfit for licensure. Nothing in this rule is intended to guarantee restoration of a license.
4. Restoration of an educator license is considered on a case-by-case basis. The burden of proof rests with the individual applying for restoration of the license. An application for restoration also may be denied if an action against the individual's educator license has been taken or is pending in another state.
5. Exception for Expired Licenses – An individual whose license expired during the period of revocation may apply for reactivation, unless the license was permanently revoked. Because the individual's license is expired, the individual

shall submit a reactivation application instead of a restoration application. The individual shall show why the license should be reactivated despite the individual's affirmative answers to the personal affirmation questions on his or her application and that the individual has complied with any terms and conditions imposed in the order of revocation. The individual shall show cause why the license should be reactivated despite the misconduct that resulted in the individual's license being revoked. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Applications for reactivation shall be submitted in TNCompass in accordance with State Board License Reinstatement and License Restoration Applications Policy 5.500.

(i) Reactivation of an expired revoked license is considered on a case-by-case basis. The burden of proof rests with the individual applying for reactivation of the license. An application for reactivation may also be denied if an action against the individual's educator license has been taken or is pending in another state.

6. If the case review committee recommends the revoked license be restored or, in the case of an expired revoked license, reactivated, Board counsel shall send notice to the individual that his or her application for restoration or reactivation will be presented to the Board for approval at its next regularly scheduled meeting.

7. Paragraphs (12) and (13) of this Rule address procedures to be followed if the case review committee recommends the restoration application be denied or denial of an application to reactivate an expired revoked license. The Board is not bound by the case review committee's recommendation.

(8) Denial of a License.

(a) An individual who has been denied an educator license may reapply for a license at any point after denial provided the individual has complied with any terms and conditions imposed in the order of denial. If the individual indicates an affirmative answer on the personal affirmation section of the application for a Tennessee educator license, the individual shall show why the license should be issued despite the individual's affirmative answers. Issuance of a license is considered on a case-by-case basis and the burden of proof rests with the individual applying for the license. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period has been completed. An application for issuance of a license may be denied if an action against the individual's license has been taken or is pending in another state.

(b) Presumptive Denial – There shall be a rebuttable presumption that any individual applying for an educator license who has committed an offense that would subject him or her to revocation or suspension shall be presumed ineligible to receive a Tennessee educator license.

(9) Scope of Disciplinary Action – An individual whose license has been suspended or revoked, shall not serve as a school volunteer or be employed, directly or indirectly, as an educator, paraprofessional, aide, substitute teacher, or in any other position in a school during the period of the suspension or revocation.

(10) Duty to Maintain Updated Contact Information - Individuals have a duty to maintain up-to-date contact information, including but not limited to address, e-mail address, and phone number, in the

state of Tennessee's educator licensure database (TN Compass). Any changes to the individual's contact information shall be updated by the individual in the educator license database (TN Compass) within thirty (30) days of the change. All notices provided by the State Board to individuals under this rule shall be sent to the individual's contact information in TN Compass.

- (11) Case Review - State Board counsel shall present an initial recommendation for licensure action or non- action to a case review committee consisting of State Board staff who shall review the entire file to determine whether disciplinary action should be recommended to the State Board against an individual's license, or whether to issue, renew, restore or reactivate an individual's license. The case review committee may also determine that additional information is necessary before a recommendation can be made.
- (12) Denial of an Initial Application or Application to Reactivate an Expired License - If the case review committee recommends that the State Board deny an initial application for a Tennessee educator license or an application to reactivate an expired license under this Rule, said denial will be presented to the State Board at a regularly scheduled State Board meeting. State Board counsel will notify individuals of the denial recommendation and the State Board's policy regarding requests to speak at State Board meetings.
- (13) Proposed Action and Due Process Rights – If the case review committee recommends that the State Board formally reprimand, suspend, or revoke an individual's license or deny the renewal of an individual's license under paragraphs (3) or (5) of this rule, or that the State Board deny restoration under paragraph (7), State Board counsel shall send the proposed action to the individual in writing using the individual's contact information in the State of Tennessee's educator licensure database (TN Compass) regarding the proposed licensure action and that they are entitled to request that a hearing be conducted as a contested case under the Uniform Administrative Procedures Act ("UAPA"), T.C.A. §§ 4-5-301, et seq., and the individual's right to show compliance pursuant to T.C.A. § 4-5-320(c). State Board counsel may also include a proposed consent order to be agreed to by the individual. Should the individual fail to request a hearing within the specified time period or fail to take action with regard to the consent order, a contested case proceeding shall be instituted against him or her, of which the individual shall be sent separate notice of official charges for license action and notice directing him or her to appear at a specified time and place for a hearing to be held before an Administrative Law Judge ("ALJ") sitting on behalf of the State Board pursuant to the UAPA, T.C.A. §§ 4-5-301, et seq. Should the individual fail to appear, a default judgment may be taken against his or her license. If the individual requests a hearing, then State Board counsel schedules a hearing to be conducted as a contested case proceeding with an ALJ sitting on behalf of the State Board pursuant to the UAPA. The State Board or the individual may appeal the Initial Order of the ALJ to the State Board or to Chancery Court in Davidson County, Tennessee, pursuant to the UAPA, or seek reconsideration from the ALJ.
- (14) Consent Order/Action - If the individual consents to the proposed licensure action, State Board counsel shall present the consent order to the State Board for approval. The State Board is not bound by the recommendation contained in the consent order. The State Board may vote to approve the consent order, to impose less harsh disciplinary action, or to pull the item from the agenda for reconsideration of a harsher disciplinary action. If a harsher disciplinary action is recommended by the State Board, State Board counsel shall send a new notice to the individual regarding his or her right to request a hearing pursuant to paragraph thirteen (13) of this rule.
- (15) Contested Case Proceedings – All contested case hearings before the State Board or an ALJ sitting on behalf of the State Board shall be conducted pursuant to the Uniform Rules of Procedures for Contested Case Hearings Before State Administrative Agencies, Rules 1360-04-01-.01 through 1360-04-01-.20.
- (16) Assessment of Costs – When a final order is issued following a contested case hearing, before the

State Board or an ALJ sitting on behalf of the State Board, in which an individual is issued a formal reprimand or the individual's license is denied, non-renewed, suspended, or revoked under this rule, State Board counsel may request that the State Board, or an ALJ sitting on behalf of the State Board, order that reasonable costs associated with the contested case hearing be assessed against the individual pursuant to T.C.A. § 49-5-419. The reasonable costs associated with the contested case hearing shall be determined by the State Board or the ALJ sitting on behalf of the State Board and shall be based upon billing associated with the contested case hearing received from the State of Tennessee Department of State Administrative Procedures Division.

- (17) Discipline Schedule – The following chart outlines the least and greatest disciplinary ranges for the offenses listed as indicated by the shaded squares, provided that the State Board may impose discipline outside of the stated range as provided in paragraph (5)(e) of this Rule.


| | Letter of Formal Reprimand | Suspension of 3 months up to and including 6 months | Suspension of 6 months up to and including 1 Year | Suspension of 1 Year up to and including 18 Months | Suspension of 18 months up to and including 2 Years | Suspension of 2 years up to and including Revocation | Revocation | Permanent Revocation |
|---|----------------------------|---|---|--|---|--|------------|----------------------|
| Noncompliance with security guidelines | | | | | | | | |
| Director of Schools Failure to Report | | | | | | | | |
| Negligence w/o Harm or with potential for harm) | | | | | | | | |
| Inappropriate Physical Contact w/o Harm | | | | | | | | |
| Unprofessionalism - Inappropriate Communication (Non-Explicit) | | | | | | | | |
| Unprofessionalism - Inappropriate Use of School Property | | | | | | | | |
| Possession/Use/Under Influence - Off School Premises/Property w/o Children Present During School Related Activity | | | | | | | | |
| Possession/Use/Under Influence - Off School Premises/Property w/ Children | | | | | | | | |
| Possession/Use/Under Influence - On School Premises/Property w/o Children | | | | | | | | |
| Possession/Use/Under Influence - On School Premises/Property w/ Children | | | | | | | | |

| | | | | | | | | |
|--|--|--|--|--|--|--|--|--|
| Violation of Teacher Code of Ethics | | | | | | | | |
| Negligence w/ Harm | | | | | | | | |
| Inappropriate Physical Contact with Harm | | | | | | | | |
| Felony Conviction | | | | | | | | |
| Misdemeanor Conviction (Minor Victim) | | | | | | | | |
| Falsification of Licensure Documentation | | | | | | | | |
| Unprofessionalism - Inappropriate Communication (Explicit) | | | | | | | | |

Authority: T.C.A. §§ 4-5-320, 49-1-302, 49-1-607, 49-5-106, 49-5-108, 49-5-413, 49-5-417, and 49-5-419. **Administrative History:** Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Amendment filed May 29, 2015; effective August 27, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016. Emergency rule filed September 5, 2017; effective through March 4, 2018. Amendments filed December 5, 2017; effective March 5, 2018. Amendments filed February 3, 2020; effective May 3, 2020. Amendments filed November 30, 2020; effective February 28, 2021. Amendments filed August 5, 2021; effective November 3, 2021. Amendments filed September 2, 2022; effective December 1, 2022.

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: 05/22/2023


Signature: 

Name of Officer: Angela C. Sanders

Title of Officer: General Counsel

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Filed with the Department of State on: 5/22/2023


Tre Hargett
Secretary of State

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