
COVID-19 Waivers

The Background:

Chapter 652 of the Public Acts of 2020 granted the Commissioner of Education the authority, upon the approval of the State Board, to waive state statutes and/or State Board rules that inhibits or hinders an LEA's ability to meet the LEA's goals or comply with the LEA's mission due solely to the outbreak of COVID-19 during the spring semester of the 2019-20 school year. State Board of Education Emergency Rule 0520-01-03-.11 requires that all waiver requests be submitted to the Commissioner by June 30, 2020.

In response, the Office of the General Counsel at the department worked to create an application for LEAs to request waivers related to COVID-19. Based on feedback from LEAs before the release of the waiver application, the department, working with State Board staff, identified three of the most common areas of statute and rule from which districts would likely request waivers:

- T.C.A. § 49-5-409(b), which requires school districts to notify teachers within five (5) business days following the last instructional day for the school year if a teacher's contract will not be renewed for the succeeding school year.
- T.C.A. § 49-5-503(4), which states that teachers who have received evaluations demonstrating an overall performance effectiveness level of "above expectations" or "significantly above expectations" as provided in the evaluation guidelines adopted by the State Board of Education pursuant to T.C.A. § 49-1-302, during the last two (2) years of the probationary period are eligible for tenure.
- T.C.A. § 49-2-202(a)(6) and State Board rule 0520-01-02-.11 requiring every member of a local board of education to participate in annual training.

The waiver application contains boxes for LEAs to check to request a waiver from one or more of these three identified areas. The department has made the decision to waive these requirements for each LEA that requests a waiver, and this proposal seeks State Board approval for the Commissioner to waive these requirements. A list of LEAs and which of the three waivers each has requested is included in a spreadsheet with this item. This list includes LEAs that have submitted waivers since the State Board's May 29, 2020 meeting, when other LEAs were approved for these same waivers.

The waiver application also contains an open-ended section for LEAs to request waivers from other rules or statutes. The department is considering these additional waivers on a case-by-case basis and will propose the additional waivers recommended by the Commissioner for approval to the State Board at a later date.

The Recommendation:

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