

**RULES  
OF  
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-18  
TEXTBOOK AND INSTRUCTIONAL MATERIALS WAIVERS**

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**0520-01-18-.01 DEFINITIONS.**

- (1) As used in this chapter:
- (a) “Textbook” has the same meaning as in T.C.A. § 49-6-2202(e) and the Rules of the State Textbook Commission 0520-05-01-.01.
  - (b) “Instructional Materials” has the same meaning as in the Rules of the State Textbook Commission 0520-05-01-.01.
  - (c) “Open Education Resources (OER)” means freely accessible, open-licensed curriculum that includes text, media, and other digital assets that constitutes a full curriculum that conforms to the relevant Tennessee Academic Standards.
  - (d) “Supplemental Materials” means resources used to complement or enhance the adopted Textbook and Instructional Materials for specific lessons, units, or topics, but which do not comprise the majority of standards for the grade-specific subject.
  - (e) “State Board” means the Tennessee State Board of Education.
  - (f) “The Department” means the Tennessee Department of Education.
  - (g) “Textbook Commission” means the Tennessee State Textbook and Instructional Materials Quality Commission established pursuant to T.C.A. § 49-6-2201.
  - (h) “LEA” means a Tennessee local education agency and has the same meaning given in T.C.A. § 49-1-103(2).
  - (i) “Local Board” means a Tennessee local board of education.

**Authority:** T.C.A. §§ 49-6-2202 and 49-6-2206. **Administrative History:** Emergency rules filed August 26, 2020; effective through February 22, 2021. Emergency rules expired effective February 23, 2021, and the rules reverted to their previous statuses. Original rules filed December 17, 2020; effective March 17, 2021.

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

- (1) A Local Board may apply for a waiver to use Textbooks and Instructional Materials that are not on the list approved by the state Textbook Commission and State Board when, in the State Board’s judgment, the unique or unusual needs of the LEA require it; provided, however, waivers are not required for Textbooks and Instructional Materials previously included on the list approved by the Textbook Commission and State Board and purchased with public funds. A waiver request may be submitted for the following categories of Textbooks and Instructional Materials:

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

- (a) Textbooks or Instructional Materials that were reviewed by the Textbook Commission but that did not pass the review and were not included on the list approved by the Textbook Commission and the State Board.
  - (b) Textbooks or Instructional Materials that were not reviewed by the Textbook Commission, including:
    - 1. Publisher-Created Materials;
    - 2. Open Education Resources; and
    - 3. District-Created Materials.
- (2) Each waiver request shall be approved by the Local Board and submitted by the Director of Schools or the Director's designee to the State Board on the waiver application developed by the State Board staff and posted on the State Board's website. The application shall include, but not be limited to, the following information:
- (a) The publisher(s) and title(s) of the requested Textbooks and/or Instructional Materials, if applicable;
  - (b) Grade levels and/or courses for the requested waiver;
  - (c) A clear explanation of the unique or unusual needs of the school system necessitating the waiver request;
  - (d) Evidence of improved student outcomes with the requested Textbooks and/or Instructional Materials, if applicable;
  - (e) Evidence of student outcomes when utilizing Textbook and/or Instructional Materials waivers the district has been granted in the past, if applicable;
  - (f) For Textbooks and/or Instructional Materials that were reviewed by the Textbook Commission but did not pass and were not included on the list approved by the Textbook Commission and the State Board, the local board of education shall submit a completed rubric from the local adoption committee created pursuant to T.C.A. § 49-6-2207 and an explanation for how it will address the deficiencies identified by the Textbook Commission;
  - (g) For Textbooks and/or Instructional Materials that were not reviewed by the Textbook Commission:
    - 1. A completed rubric from the local adoption committee created pursuant to T.C.A. § 49-6-2207 that indicates the extent to which the Textbook and/or Instructional Materials are aligned to the Tennessee Academic Standards;
    - 2. Any planned use of Supplemental Materials to address areas of misalignment, if any, with the Tennessee Academic Standards to ensure comprehensive coverage; and
  - (h) Any additional evidence of the requested Textbooks and/or Instructional Materials' quality;
- (3) Upon request of the State Board staff, the Department shall assist the State Board staff in administering the Textbook and Instructional Materials waiver review process by providing staff

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

to serve as subject-matter experts for each content area. The Department subject matter experts shall provide feedback on the rubric developed by State Board staff for each completed and properly submitted waiver application. State Board staff shall develop a process for review of completed and properly submitted waiver applications in consultation with the Department's subject-matter experts.

- (4) State Board staff may request additional information, clarifications, and/or revisions to waiver applications from the local board of education prior to preparing a recommendation for the State Board.
- (5) In consultation with Department subject-matter experts, State Board staff shall prepare and present a recommendation to the State Board on each completed and properly submitted waiver application.
- (6) Waivers approved by the State Board shall remain in effect until the next adoption cycle for the course for which the waiver was granted, unless a shorter period of time is specified by the State Board or by the local board of education. A waiver request that has been denied by the State Board shall not be re-submitted by the local board of education to the State Board for consideration during the term of the adoption cycle for the specific content area.
- (7) LEAs shall not use textbooks or instructional materials that are not either on the state-approved adoption list or approved for use in the LEA via the waiver process set out in this rule, pursuant to T.C.A. § 49-6-2206.

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

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

- (1) In determining whether or not, in the State Board's judgment, the unique or unusual needs of the LEA merit the approval of a waiver application, the State Board may consider a number of factors, including, but not limited to:
  - (a) The feedback of the Department subject-matter experts for the relevant content area on the rubric developed by State Board staff.
  - (b) The explanation of the unique or unusual needs of the LEA necessitating the use of the requested Textbooks and/or Instructional Materials in the waiver application.
  - (c) The extent of the Textbook and/or Instructional Materials' alignment to Tennessee Academic Standards and, if necessary, the extent to which the LEA's plan would remediate any areas of misalignment.
  - (d) How the LEA will address deficiencies identified by the Textbook Commission, if applicable.
  - (e) Evidence of improved student outcomes in the LEA when utilizing Textbook and/or Instructional Materials waivers the LEA has been granted in the past, if applicable.
  - (f) The availability of state-approved Textbooks and/or Instructional Materials for the requested course and/or subject.

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