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Sequence Number: 01-17-24

Rule ID(s): 10007

File Date: 1/24/2024

Effective Date: 4/23/2024

## Rulemaking Hearing Rule(s) Filing Form

*Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).*

*Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).*

<b>Agency/Board/Commission:</b>	State Board of Education
<b>Division:</b>	N/A
<b>Contact Person:</b>	Angie Sanders
<b>Address:</b>	500 James Robertson Parkway, 8 <sup>th</sup> Floor
<b>Zip:</b>	37243
<b>Phone:</b>	615-253-5707
<b>Email:</b>	Angela.C.Sanders@tn.gov

**Revision Type (check all that apply):**☒ Amendment☐ New☐ Repeal☐ Content based on previous emergency rule filed on \_\_\_\_\_☐ Content is identical to the emergency rule

**Rule(s)** (**ALL** chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. 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-.17	State Enrollment and Attendance Guidelines

## **AMENDMENT**

**AMEND** the rules of the State Board of Education Chapter 0520-01-02 District and School Operations, Section -.17 State Enrollment and Attendance Guidelines, so that as amended, the revised Rule Section -.17 shall read:

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

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

##### **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.

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Jordan Mollenhour	X				
Bob Eby	X				
Ryan Holt	X				
Warren Wells	X				
Lillian Hartgrove	X				
Nate Morrow	X				
Darrell Cobbins	X				
Larry Jensen	X				
Krissi McInturff	X				
Laurel Cox				X	
Victoria Harpool, designee for Steven Gentile, Interim Executive Director, Tennessee Higher Education Commission <b>Non-Voting Ex-Officio</b>					

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the State Board of Education on 11/03/2023, and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 08/11/2023

Rulemaking Hearing(s) Conducted on: (add more dates). 10/02/2023

Date: 1/19/2024

Signature: 


Name of Officer: Angie Sanders

Title of Officer: General Counsel

Agency/Board/Commission: State Board of Education

Rule Chapter Number(s): 0520-01-02

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

  
Jonathan Skrametti  
Attorney General and Reporter

Jan. 22, 2024  
Date



**Department of State Use Only**

Filed with the Department of State on: 1/24/2024

Effective on: 4/23/2024



Tre Hargett  
Secretary of State

RECEIVED

Jan 24 2024, 2:21 pm

Secretary of State  
Division of Publications

**Public Hearing Comments**

The Tennessee State Board of Education held a public rulemaking hearing on Chapter 0520-01-02-.17 on October 2, 2023, at 500 James Robertson Parkway, Nashville, TN and via Webex. No public comments were submitted at the hearing regarding this rule.

**Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

This rule does not affect small businesses.



### **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228, "On any rule and regulation proposed to be promulgated, the proposing agency shall state in a simple declarative sentence, without additional comments on the merits or the policy of the rule or regulation, whether the rule or regulation may have a projected financial impact on local governments. The statement shall describe the financial impact in terms of increase in expenditures or decrease in revenues."

This rule has no fiscal impact on local governments.

### Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

Revisions to this rule are proposed in alignment with Public Chapter 114 of 2023 (PC 114) to remove specific references to the GED or HiSET assessments and refer instead to a high school equivalency credential approved by the State Board of Education.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

Public Chapter 114 of 2023 removed specific references to the GED or HiSET assessments throughout Tennessee Code Annotated to refer instead to a high school equivalency credential approved by the State Board of Education.

T.C.A. § 4-3-1422 authorizes the Tennessee Department of Labor and Workforce Development to make recommendations to the State Board relative to criteria or assessments that lead to the award of a high school equivalency credential, and authorizes the State Board to promulgate rules to effectuate the section.

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

These rules have a direct effect on the State Board, Department of Education, and Department of Labor and Workforce Development and all urge adoption. These rules also have a direct effect on students who may be seeking a high school equivalency credential. The State Board did not hear from any citizens urging adoption or rejection of the rules.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None.

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

None.

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Angie Sanders (State Board of Education)  
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Nathan James (State Board of Education)  
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Robin Yeh (Department of Education)  
[Robin.Yeh@tn.gov](mailto:Robin.Yeh@tn.gov)

Stamatia Xixis (Department of Labor)  
[Stamatia.Xixis@tn.gov](mailto:Stamatia.Xixis@tn.gov)

Jay Baker (Department of Labor)  
[Jay.Baker@tn.gov](mailto:Jay.Baker@tn.gov)

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Angie Sanders (State Board of Education)  
[Angela.C.Sanders@tn.gov](mailto:Angela.C.Sanders@tn.gov)

Nathan James (State Board of Education)  
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Robin Yeh (Department of Education)  
[Robin.Yeh@tn.gov](mailto:Robin.Yeh@tn.gov)

Stamatia Xixis (Department of Labor)  
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Jay Baker (Department of Labor)  
[Jay.Baker@tn.gov](mailto:Jay.Baker@tn.gov)

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

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(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.



(Rule 0520-01-02-.17, continued)

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

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

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(Rule 0520-01-02-.17, continued)

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