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Sequence Number: 08-08-20  
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# Notice of Rulemaking Hearing

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

<b>Agency/Board/Commission:</b>	State Board of Education
<b>Division:</b>	N/A
<b>Contact Person:</b>	Angie Sanders
<b>Address:</b>	500 James Robertson Parkway, 5 <sup>th</sup> Floor, Nashville, TN 37243
<b>Phone:</b>	(615) 253-5707
<b>Email:</b>	Angela.C.Sanders@tn.gov

*Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:*

<b>ADA Contact:</b>	Angie Sanders
<b>Address:</b>	500 James Robertson Parkway, 5 <sup>th</sup> Floor, Nashville, TN 37243
<b>Phone:</b>	(615) 253-5707
<b>Email:</b>	Angela.C.Sanders@tn.gov

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

Address 1:	500 James Robertson Parkway		
Address 2:	Davy Crockett Building, Conference Room 1C, 1 <sup>st</sup> Floor		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	09/28/2020		
Hearing Time:	9:30 AM	<input type="checkbox"/> X <input type="checkbox"/>	<input type="checkbox"/> EST/EDT

**Additional Hearing Information:**

**\*\*\*Anyone wishing to participate electronically may access the hearing using the following information:\*\***  
**URL:** <https://tngov.webex.com/tngov/j.php?MTID=m567e0e9dfd5ccc1d5290b3f2b6e01316>  
**Password:** SBERules  
**Phone:** 415-655-0003  
**Access code:** 169 633 4415

Please check the State Board's website at <https://www.tn.gov/sbe/meetings.html> for any additional information regarding this rulemaking hearing. **If prohibitions on in-person gatherings due to COVID-19 prevent this hearing from occurring in-person, such information will be posted on the State Board's website and all attendees will utilize the above information to participate electronically.**

Oral comments are invited at the hearing.  
 In addition, written comments may be submitted via email at [angela.c.sanders@tn.gov](mailto:angela.c.sanders@tn.gov) or mailed to:  
 Tennessee State Board of Education

Attention: Angie Sanders  
Davy Crockett Tower, 5<sup>th</sup> Floor  
500 James Robertson Parkway  
Nashville, Tennessee 37243.

Written comments must be received by 4:30 PM CT on October 1, 2020 in order to ensure consideration. For further information, please contact Angie Sanders at the above address or by e-mail at [angela.c.sanders@tn.gov](mailto:angela.c.sanders@tn.gov).

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

**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.)

<b>Chapter Number</b>	<b>Chapter Title</b>
0520-01-18	Textbook and Instructional Materials Waivers
<b>Rule Number</b>	<b>Rule Title</b>
0520-01-18-.01	Definitions
0520-01-18-.02	Waiver Application Process
0520-01-18-.03	Factors Affecting Waiver Decision

**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
0520-01-18-.02	Waiver Application Process
0520-01-18-.03	Factors Affecting Waiver Decision

**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).
  - (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, 49-6-2206. **Administrative History:**

**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 school system require it. Unique or unusual needs may include, but are not limited to:

- (a) The LEA has demonstrated success with a specific title(s) and publisher and wants to continue to use these materials. The LEA shall provide evidence in the waiver application supporting that it has demonstrated success with the Textbook and/or Instructional Materials through previous use of the Textbooks and/or Instructional Materials, including but not limited to the following examples: use as supplemental materials, part of a pilot program, or if the Textbook and/or Instructional Materials were on a previous state-approved adoption list. Evidence of success may include, but is not limited to, documented gains in student achievement and/or growth in the relevant subject on the Tennessee Comprehensive Assessment Program, or documented gains on other nationally normed assessments in the relevant subject;
  - (b) The LEA wants to use Open Education Resources.
  - (c) The LEA wants to offer a state-approved course for which no adopted Textbooks and/or Instructional Materials exist.
- (2) Each waiver request shall be submitted by the Director of Schools or the Director's designee to the Department on the waiver application developed by the State Board staff, in consultation with the Department of Education, and posted on its website. Information on 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; and
  - (d) Any record of demonstrated success with the requested Textbooks and/or Instructional Materials; evidence of alignment to the Tennessee Academic Standards; descriptions of the student and teacher resources that comprise the Textbooks and/or Instructional Materials; any planned use of Supplemental Materials to complement or enhance the proposed Textbooks and/or Instructional Materials, including how the LEA plans to address any areas of misalignment with the Tennessee academic standards to ensure comprehensive coverage of the Tennessee academic standards; and any additional evidence of the requested Textbooks and/or Instructional Materials' quality.
- (3) The Department shall review each completed and properly submitted waiver application and submit all waiver applications and relevant information, along with a recommendation from the Commissioner regarding approval or denial of the waiver application, to the State Board. Upon receipt of all required information from the Commissioner, the State Board shall review the submitted information and make a decision on the waiver application at its next regular or specially called Board meeting.
- (4) Waivers shall remain in effect until the next adoption cycle for the course for which the waiver was granted.
- (5) 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:**

**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 recommendation of the Commissioner and reasons supporting the recommendation to approve or deny the application.
  - (b) The explanation of the unique or unusual needs of the school system 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 with Tennessee academic standards.
  - (d) Prior experience of the LEA seeking the waiver with the proposed Textbooks and/or Instructional Materials, if applicable.
  - (e) Whether the State Board has previously approved waivers for the same Textbooks and/or Instructional Materials for other LEAs.
  - (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:**

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: 8/7/20

Signature: 

Name of Officer: Angela C. Sanders

Title of Officer: General Counsel

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Filed with the Department of State on: 8/10/2020



Tre Hargett  
Secretary of State

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