

**Department of State
Division of Publications**

312 Rosa L. Parks Ave., 8th Floor, Snodgrass/TN Tower
Nashville, TN 37243
Phone: 615-741-2650
Email: publications.information@tn.gov

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Sequence Number: 10-25-23
Rule ID(s): 9949
File Date: 10/25/2023
Effective Date: 1/23/2024

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).

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

Revision Type (check all that apply):

☒ Amendment ☐ Content based on previous emergency rule filed on _____
☐ New ☐ Content is identical to the emergency rule
☐ Repeal

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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
0520-01-03	Academic and Instructional Requirements
Rule Number	Rule Title
0520-01-03-.15	Universal Student Screeners and State-Adopted Benchmark Assessments

AMENDMENT

AMEND the rules of the State Board of Education Chapter 0520-01-03 section -.15 titled Universal Student Screeners and State-Adopted Benchmark Assessments, so that as amended, the revised section -.15 shall read:

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 (ELA) 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 ELA 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 of Education (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 that is part of the Innovative Benchmark Assessment Pilot Program 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 ELA content.
 - (h) "Post-test" means a state-mandated assessment that is part of the Innovative Benchmark Assessment Pilot Program 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/or ELA content. The post-test used to determine adequate growth pursuant to T.C.A. § 49-6-3115 for purposes of determining eligibility for promotion from third (3rd) to fourth (4th) grade shall be the assessment created by the Department that is aligned to the ELA portion of the third (3rd) grade TCAP assessment 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 ELA 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.

* 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				
Victoria Harpool, designee for Robert Smith, Executive Director, Tennessee Higher Education Commission Non-Voting Ex-Officio					

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 8/4/2023, 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: 05/22/2023

Rulemaking Hearing(s) Conducted on: (add more dates) 07/13/2023

Date: 10/16/2023

Signature: 

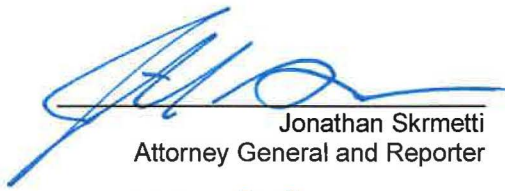
Name of Officer: Angie Sanders

Title of Officer: General Counsel

Agency/Board/Commission: State Board of Education

Rule Chapter Number(s): 0520-01-03

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
10/24/23
Date

Department of State Use Only

Filed with the Department of State on: 10/25/2023

Effective on: 1/23/2024


Tre Hargett
Secretary of State

RECEIVED

Oct 25 2023, 4:00 pm

Secretary of State
Division of Publications

Public Hearing Comments

The Tennessee State Board of Education held a public rulemaking hearing on Rule 0520-01-03-.15 on July 13, 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 beyond the authorizing legislation.

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;

Pursuant to Chapters 1 and 3 of the Public Acts of 2021 (1st Extraordinary Session), the State Board of Education ("State Board") is authorized to promulgate rules to implement the Tennessee Literacy Success Act and the Tennessee Learning Loss Remediation and Student Acceleration Act.

The Tennessee Learning Loss Remediation and Student Acceleration Act (T.C.A. § 49-6-1501, et seq.) requires LEAs and public charter schools to implement summer learning camps, after-school mini camps, and learning loss bridge camps to provide students with additional learning opportunities. The Act requires that LEAs and public charter schools administer a pre-test and post-test at the beginning and end of the camps.

Revisions to the Universal Student Screeners and State Adopted Benchmark Assessments Rule 0520-01-03-.15 amend the definition of "pre-test" to remove the requirement that the pre-test is used to determine adequate growth for the purposes of 3rd grade to 4th grade promotion. This change ensures the rule is consistent with the provisions of T.C.A. §§ 49-6-3115 and 49-6-1508. The definition of "post-test" was also amended to clarify that the post-test utilized to determine whether a student has achieved adequate growth for purposes of third grade promotion shall be a Department of Education-developed assessment that is aligned to the ELA portion of the third grade TCAP assessment. This allows the Department to calculate a student's growth toward proficiency with a consistent standards-aligned measure.

This item also clarifies that for grades K-3, the State Board-approved universal reading screeners shall serve as the state-adopted benchmark assessments for the purposes of identifying priority students for summer programming. Revisions also expand the grade bands for summer programming to include 9th grade students in accordance with Chapter 144 of the Public Acts of 2023.

- (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;

Pursuant to Chapters 1 and 3 of the Public Acts of 2021 (1st Extraordinary Session), the State Board is authorized to promulgate rules to implement the Tennessee Literacy Success Act and the Tennessee Learning Loss Remediation and Student Acceleration Act.

Public Chapter 144 of the Public Acts of 2023 amended the definition of priority students to allow additional grade levels to participate in the after-school and summer learning camps set forth in the Learning Loss Remediation and Student Acceleration Act.

- (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;

The State Board of Education and Department of Education are both directly affected by this rule and urge adoption. In addition, local education agencies and public school students are directly affected. The State Board did not receive any public comments from these parties urging adoption or rejection of the rule.

- (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)

Angela.C.Sanders@tn.gov

Nathan James (State Board of Education)

Nathan.James@tn.gov

Robin Yeh (Department of Education)

Robin.Yeh@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

Nathan James (State Board of Education)

Nathan.James@tn.gov

Robin Yeh (Department of Education)

Robin.Yeh@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

Angie Sanders

State Board of Education

500 James Robertson Parkway, 8th Floor

Nashville, TN 37243

(615) 253-5707

Angela.C.Sanders@tn.gov

Nathan James

State Board of Education

500 James Robertson Parkway, 8th Floor

Nashville, TN 37243

(615) 532-3528

Nathan.James@tn.gov

Robin Yeh

Department of Education

710 James Robertson Parkway, 9th Floor

Nashville, TN 37243

(615) 445-9543

Robin.Yeh@tn.gov

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

None.

**RULES
OF
THE STATE BOARD OF EDUCATION**

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~~For students in Kindergarten through grade three (K-3), ~~who that a student's scores in the 15th percentile or below on a Universal Reading Screener is 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 (ELA) 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~~For students in Kindergarten through grade three (K-3), ~~who that a student's scores on a Universal Reading Screener is~~ 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 ELA 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 of Education (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 that is part of the Innovative Benchmark Assessment Pilot Program provided to students upon entry to 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 ELA content. ~~The assessment shall 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.~~

- (h) "Post-test" means a state-mandated assessment that is part of the Innovative Benchmark Assessment Pilot Program provided to students ~~upon exit 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/or ~~English language arts~~ ELA content. ~~The post-test assessment will be used to determine adequate growth pursuant to T.C.A. § 49-6-3115 for purposes of determining eligibility for promotion from third (3rd) to fourth (4th) grade shall be the assessment created by the Department that is aligned to the ELA portion of the third (3rd) grade TCAP assessment beginning in the 2022-2023 school year.~~
 - (i) "Tennessee Literacy Success Act" means Tennessee Code Annotated ("T.C.A.") §§ 49-1-901 et seq. ~~enacted by the Tennessee General Assembly in Public Chapter 3 of the First Extraordinary Session of 2021.~~
 - (j) "Tennessee Learning Loss Remediation and Student Acceleration Act" means T.C.A. §§ 49-5-1501 et seq. ~~enacted by the Tennessee General Assembly in Public Chapter 1 of the First Extraordinary Session of 2021.~~
- (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 ELA 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:

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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, in implementing the Tennessee Learning Loss Remediation and Student Acceleration Act.
 - (b) For grades four (4) through ~~eight-nine (98)~~, 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.; ~~Chapter 1 of the Public Acts of 2021 (1st Extraordinary Session); and Chapter 3 of the Public Acts of 2021 (1st Extraordinary Session).~~
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