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**For Department of State Use Only**

Sequence Number: 12-18-12  
 Rule ID(s): 5354  
 File Date: 12/19/12  
 Effective Date: 5/31/13

## Proposed Rule(s) Filing Form

*Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.*

<b>Agency/Board/Commission:</b>	State Board of Education
<b>Division:</b>	
<b>Contact Person:</b>	Dannelle F. Walker
<b>Address:</b>	9 <sup>th</sup> Floor, 710 James Robertson Parkway, Andrew Johnson Tower, Nashville, TN
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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s) Revised (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please enter only ONE Rule Number/Rule Title per row)**

Chapter Number	Chapter Title
0520-02-04	Licensure
Rule Number	Rule Title
0520-02-04-.01	General Information and Regulations

Chapter 0520-02-04

Licensure

Amendments

Paragraph (9) of Rule 0520-02-04-.01 titled Denial, Suspension and Revocation of License is amended by deleting the entire title and replacing it so that, as amended, the title in its entirety shall read: Denial, Formal Reprimand, Suspension and Revocation of License.

Paragraph (9) of Rule 0520-02-04-.01 Denial, Suspension and Revocation of License is amended by deleting the introductory text of subparagraph (b) that states “The State Board of Education may revoke, suspend or refuse to issue or renew a license for the following reasons:” and replacing it instead with the following language so that, as amended, the introductory text of subparagraph (b) shall read: “The State Board of Education may revoke, suspend, reprimand formally, or refuse to issue or renew a license for the following reasons:”

Paragraph (9) of Rule 0520-02-04-.01 Denial, Suspension and Revocation of License is amended by deleting the text of subparagraph (d) in its entirety and replacing it with the following language so that, as amended, subparagraph (d) in its entirety shall read:

- (9) (d) Notice of Hearing. Any person whose license is to be denied, formally reprimanded, suspended or revoked under part (b) or who is refused a license or certificate under part (c) shall be entitled to written notice and an opportunity for a hearing to be conducted as a contested case under the Tennessee Uniform Administrative Procedures Act, T.C.A. §4-5-301, et seq.

Authority: T.C.A. §§49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 -(Education Improvement Act).

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Ayers	X				
Edwards	X				
Justice	X				
Pearre	X				
Roberts	X				
Rogers	X				
Rolston	X				
Sloyan	X				
Wright				X	
Student Member				X	

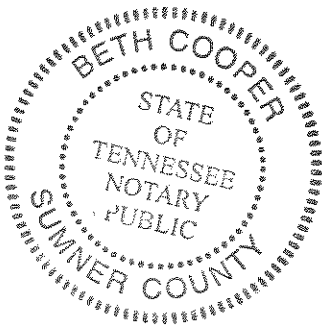
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TN State Board of Education on 10/19/12, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State.

Date: Nov. 28, 2012

Signature: Gary Nixon

Name of Officer: Gary Nixon

Title of Officer: Executive Director



Subscribed and sworn to before me on: November 28, 2012

Notary Public Signature: Beth Cooper

My commission expires on: January 26, 2016

All proposed 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.

RE Cooper  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
12-11-12

Date

**Department of State Use Only**

Filed with the Department of State on: 12/19/12

Effective on: 5/31/13



Tre Hargett  
Secretary of State

RECEIVED  
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**Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

Not applicable.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This will have no 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;

Pursuant to State Board of Education Rule 0520-2-4-.01(9)(b) the State Board of Education may revoke, suspend or refuse to issue or renew a license for several reasons listed in the rule.

Currently under the rule and policy, there is no option for the State Board to issue a formal reprimand for a license holder who engages in conduct which may not rise to the level of a suspension, but where Board action is required. Amending the rules and policy to include formal reprimand as an option would ensure that those instances of misconduct are not only recorded with the State Board of Education, but are also reported to the National Association of State Directors of Teacher Education and Certification (NASDTEC) Clearinghouse.

- (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;

T.C.A. §49-1-302

- (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;

Licensed Teachers

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

Ms. Dannelle F. Walker  
TN State Board of Education

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

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TN State Board of Education

- (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

Ms. Dannelle F. Walker  
State Department of Education  
9<sup>th</sup> Floor, 710 James Robertson Pkwy  
Nashville, Tennessee 37243  
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- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None.



Rules  
Of  
The State Board of Education

Chapter 0520-02-04  
General Information and Regulations

(9) Denial, Formal Reprimand, Suspension and Revocation of License.

(a) Automatic Revocation of License. The State Board of Education shall automatically revoke the license of a licensed teacher or administrator without the right to a hearing upon receiving verification of the identity of the teacher or administrator together with a certified copy of a criminal record showing that the teacher or school administrator has been convicted of any felony or offense listed at T.C.A. § 40-35-501(i)(2) or T.C.A. § 39-17-417 (including conviction on a plea of guilty or nolo contendere). The Board will notify persons whose licenses are subject to automatic revocation at least 30 days prior to the Board meeting at which such revocation shall occur.

(b) Denial, Formal Reprimand, Suspension or Revocation of License. The State Board of Education may revoke, suspend, reprimand formally, or refuse to issue or renew a license for the following reasons:

1. Conviction of a felony,
2. Conviction of possession of narcotics,
3. Being on school premises or at a school-related activity involving students while documented as being under the influence of, possessing or consuming alcohol or illegal drugs,
4. Falsification or alteration of a license or documentation required for licensure,
5. Denial, suspension or revocation of a license or certificate in another jurisdiction for reasons which would justify denial, suspension or revocation under this rule, or
6. Other good cause. Other good cause shall be construed to include noncompliance with security guidelines for TCAP or successor tests pursuant to Tenn. Code Ann. § 49-1-607, default on a student loan pursuant to Tenn. Code Ann. § 49-5-108(d)(2) or failure to report under part (e).

For purposes of this part (b), "conviction" includes entry of a plea of guilty or nolo contendere or entry of an order granting pre-trial or judicial diversion.

A person whose license has been denied, suspended or revoked may not serve as a volunteer or be employed, directly or indirectly, as an educator, paraprofessional, aide,

substitute teacher or in any other position during the period of the denial, suspension or revocation.

- (d) Notice of Hearing. Any person whose license is to be denied, suspended, formally reprimanded or revoked under part (b) or who is refused a license or certificate under part (c) shall be entitled to written notice and an opportunity for a hearing to be conducted as a contested case under the Tennessee Uniform Administrative Procedures Act, T.C.A. §4-5-301, et seq.