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Sequence Number: 03-16-12
 Rule ID(s): 5771
 File Date: 03/21/2012
 Effective Date: 08/29/2012

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.

Agency/Board/Commission:	State Board of Education
Division:	
Contact Person:	Dannelle F. Walker
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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
0520-01-03	Minimum Requirements for the Approval of Public Schools
Rule Number	Rule Title
0520-01-03-.03	Administration of Schools, Requirement B

Chapter Number	Chapter Title
Rule Number	Rule Title

CHAPTER 0520-01-03
Minimum Requirements for the Approval of Public Schools
Amendment

Rule 0520-01-03-.03 (11)(f) by deleting the second sentence in the paragraph and substituting the following language:

If a request to transfer is submitted less than two weeks before the beginning of the receiving district's school year, and the student is currently enrolled in another district during the prior semester, the approval of both the sending and receiving districts must be obtained.

Rule 0520-01-03-.03 by inserting a new subsection (12) and renumbering the following subsections accordingly.

(12) Public Virtual Schools.

- (a) Public virtual schools must comply with all applicable Tennessee State Board of Education policies and rules and regulations.
- (b) Public virtual schools shall:
 - 1. be approved by the local board of education;
 - 2. use technology to deliver a significant portion of instruction to its students via the Internet in a virtual or remote setting;
 - 3. review and provide access to a sequential curriculum that meets or exceeds the curriculum standards adopted by the Tennessee State Board of Education;
 - 4. meet the equivalent of the 180 days of instruction and 6.5 hours per day per academic year pursuant to T.C.A. § 49-6-3004;
 - 5. monitor participation and progress to ensure students meet participation requirements and make progress toward successful completion of courses;
 - 6. administer all state tests required of public school students to students enrolled in a virtual school in a proctored environment consistent with state test administration guidelines;
 - 7. be evaluated annually and report the extent to which the school demonstrates increases in student achievement, along with academic, fiscal, and operational performance;
 - 8. ensure that students with special needs, including students with disabilities and limited English proficiency are not excluded from enrolling and participating, further, the public virtual school is responsible for providing the services in the student's Individualized Education Program (IEP);
 - 9. assign a highly qualified teacher to each student enrolled;
 - 10. ensure that all teachers employed to provide services to the students are endorsed in their grade or course and qualified to teach in Tennessee;
 - 11. ensure access to instructional materials, access to technology such as a computer and printer that may be necessary for participation in the program, and access to an Internet connection used for school work; and

12. meet class size standards established by T.C.A. § 49-1-104.

(c) Public virtual schools must comply with State Board Rule 0520-01-03-.03(11).

1. For a student who is currently enrolled or was enrolled the previous semester in a public school to transfer to a public virtual school after the open transfer time has lapsed:
 - a. the student must apply to and be approved for acceptance in the public virtual school; and
 - b. once acceptance has been determined, the public virtual school must obtain permission from the sending district before enrolling the student in the public virtual school. A public virtual school shall not be eligible for state education funds for students who are improperly enrolled.
2. Students not registered in a public school the previous semester but who were enrolled instead in a private school or a home school do not require approval from a sending district.

(d) Public virtual schools must comply with all compulsory attendance requirements including monitoring and reporting as required in TCA § 49-6-3007.

1. The district establishing the public virtual school is required to report truancy to the juvenile court having jurisdiction over that student.
2. On or before August 1 of each year the public virtual school shall notify all LEAs of the enrollment of students residing within the LEA's jurisdiction. LEAs shall be notified within two weeks when changes occur relative to students residing within the LEA's jurisdiction.
3. Once a non-resident student has been accepted and enrolled in a public virtual school, it shall be the responsibility of the LEA that has established the public virtual school to maintain enrollment of that student until such a time as the student is withdrawn by the parent or guardian. If the student is withdrawn by the parent or guardian, the public virtual school shall send transcripts and other student records to the receiving school in a timely manner.

* 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				

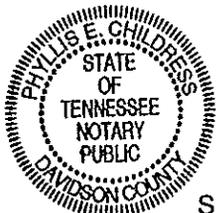
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the TN State Board of Education on 1/27/12, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed 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: February 6, 2012

Signature: *Gary Nixon*

Name of Officer: Dr. Gary L. Nixon

Title of Officer: Executive Director



MY COMMISSION EXPIRES:
January 9, 2016

Subscribed and sworn to before me on: 2/24/12

Notary Public Signature: *Phyllis E. Childress*

My commission expires on: _____

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.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

3-7-12

Date

Department of State Use Only

Filed with the Department of State on: 03/21/2012

Effective on: 08/29/2012

Tre Hargett
Tre Hargett
Secretary of State

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SECRETARY OF STATE
REGISTRATIONS

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;

The proposed rules clarify several issues relative to virtual schooling relative to the establishment, enrollment, attendance, and transfer. The proposed rules also make clear that students with disabilities and limited English proficiency are not excluded from enrolling and participating in virtual schooling.

- (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;

The 107th Session of the Tennessee General Assembly created the "Virtual Public Schools Act." This act gives local education agencies the authority to establish virtual schools; and permits LEAs to contract for services with nonprofit or for-profit entities to manage and operate virtual schools. Another provision of this act requires State Board of Education to promulgate rules and regulations relative to the operation of virtual schools. The State Board of Education also maintains this authority under T.C.A. § 49-16-102.

- (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;

State Department of Education, Local Education Agencies (LEAs) overseen by the Department of Education

- (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;

None.

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

Dr. David Sevier
State Board of Education

Mr. Stephen Smith
State Department 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

Dr. David Sevier
State Board of Education
9th Floor, 710 James Robertson Pkwy
Nashville, Tennessee 37243
615-532-3528
David.Sevier@tn.gov

Mr. Stephen Smith
State Department of Education
6th Floor, 710 James Robertson Pkwy
Nashville, Tennessee 37243
615-741-1111
Stephen.M.Smith@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
CHAPTER 0520-01-03
MINIMUM REQUIREMENTS FOR THE APPROVAL
OF PUBLIC SCHOOLS

(11) Students Transferring From One School To Another.

- (a) Students may transfer among public schools or among Category I, II, or III private schools (see Chapter 0520-07-02), without loss of credit for completed work. The school which the student leaves must supply a properly certified transcript showing the student's record of attendance, achievement, and the units of credit earned.
- (b) Principals shall allow credit for work transferred from other schools only when substantiated by official transcripts. Students transferring from schools which are not approved by the Tennessee State Board of Education or by comparable agencies shall be allowed credit only when they have passed comprehensive written examinations approved, administered, and graded by the principal. Student scores from a recognized standardized test may substitute for the required comprehensive written examinations.
- (c) The examination administered to students in grades 1-8 shall cover only the last grade completed.
- (d) The examinations administered to students in grades 9-12 shall cover the individual subjects appearing on the official transcripts. The examination for subjects of more than one unit need cover only the last unit completed. A student transferring from one school to another may count for graduation one-half unit of credit in courses for which a minimum of one unit is required only if the course is not offered in the school to which he or she is transferring.
- (e) The principal is authorized to transmit transcripts of a student to any school to which the student transfers or applies for admission when the records are requested by the receiving school or institution. The parent or guardian of the student will be notified that the transcript is being sent.
- (f) If a request to transfer is submitted less than two weeks before the beginning of the receiving district's school year, and the student is currently enrolled in another district during the prior semester, the approval of both the sending and receiving districts must be obtained. A student may transfer to a school system other than the one in which they live up to two weeks before the beginning of the school year with only the approval of the receiving board of education. If a transfer request is less than two weeks before the beginning of the school year, or is during the school year, the approval of both the sending and receiving local board of education must be obtained.
- (g) Local boards of education may arrange for the transfer of students residing within their systems to other school systems by establishing agreements with other local boards of education for the admission or transfer of students from one school system to another.
- (h) 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.
- (i) 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

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or disability, nor may it charge such students a tuition over and above the usual tuition for non-disabled persons.

Amend Rule 0520-01-03-.03 by inserting a new subsection (12) and renumbering the following subsections accordingly.

(12) Public Virtual Schools Records and Reports.

- (a) Public virtual schools must comply with all applicable Tennessee State Board of Education policies and rules and regulations.
- (b) Public virtual schools shall:
 - 1. be approved by the local board of education;
 - 2. use technology to deliver a significant portion of instruction to its students via the Internet in a virtual or remote setting;
 - 3. review and provide access to a sequential curriculum that meets or exceeds the curriculum standards adopted by the Tennessee State Board of Education;
 - 4. meet the equivalent of the 180 days of instruction and 6.5 hours per day per academic year pursuant to T.C.A. § 49-6-3004;
 - 5. monitor participation and progress to ensure students meet participation requirements and make progress toward successful completion of courses;
 - 6. administer all state tests required of public school students to students enrolled in a virtual school in a proctored environment consistent with state test administration guidelines;
 - 7. be evaluated annually and report the extent to which the school demonstrates increases in student achievement, along with academic, fiscal, and operational performance;
 - 8. ensure that students with special needs, including students with disabilities and limited English proficiency are not excluded from enrolling and participating, further, the public virtual school is responsible for providing the services in the student's Individualized Education Program (IEP);
 - 9. assign a highly qualified teacher to each student enrolled;
 - 10. ensure that all teachers employed to provide services to the students are endorsed in their grade or course and qualified to teach in Tennessee;

11. ensure access to instructional materials, access to technology such as a computer and printer that may be necessary for participation in the program, and access to an Internet connection used for school work; and
12. meet class size standards established by T.C.A. § 49-1-104.

(c) Public virtual schools must comply with State Board Rule 0520-01-03-.03(11).

1. For a student who is currently enrolled or was enrolled the previous semester in a public school to transfer to a public virtual school after the open transfer time has lapsed:
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(d) Public virtual schools must comply with all compulsory attendance requirements including monitoring and reporting as required in TCA § 49-6-3007.

1. The district establishing the public virtual school is required to report truancy to the juvenile court having jurisdiction over that student.
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