

**Department of State
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Sequence Number: 05-28-15
Rule ID(s): 5958
File Date: 05-29-15
Effective Date: 08-27-15

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 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 ninety (90) days of 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.

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: | |
| Contact Person: | Angie Sanders |
| Address: | 1 st Floor, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN |
| Zip: | 37243 |
| Phone: | 615-253-5707 |
| Email: | Angela.C.Sanders@tn.gov |

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 |
|----------------|---|
| 0520-02-03 | Educator Licensure |
| Rule Number | Rule Title |
| 0520-02-03-.09 | Denial, Formal Reprimand, Suspension and Revocation |
| | |
| | |

| Chapter Number | Chapter Title |
|----------------|---------------|
| Rule Number | Rule Title |
| | |
| | |

Substance of Proposed Rule

**CHAPTER 0520-02-03
EDUCATOR LICENSURE**

Amendment

Rule 0520-02-03-.09 Denial, Formal Reprimand, Suspension and Revocation is amended so that section (1) shall read:

(1) 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), 39-17-417, a sexual offense or a violent sexual offense as defined in 40-39-202, any offense in title 39, chapter 13, 39-14-301 and 39-14-302, 39-14-401 and 39-14-404, 39-15-401 and 39-15-402, 39-17-1320, or any other offense in title 39, chapter 17, part 13 (including conviction on a plea of guilty or nolo contendere, conviction for the same or similar offense in any jurisdiction, or conviction for the solicitation of, attempt to commit, conspiracy, or acting as an accessory to such offenses). The Board will notify persons whose licenses are subject to automatic revocation at least thirty (30) days prior to the Board meeting at which such revocation shall occur.

Authority: T.C.A. §§ 49-1-302, 49-5-108.

* 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) |
|----------------|-----|----|---------|--------|-------------------------|
| Chancey | X | | | | |
| Edwards | X | | | | |
| Hartgrove | X | | | | |
| Johnson | X | | | | |
| Pearre | X | | | | |
| Roberts | X | | | | |
| Rolston | X | | | | |
| Tucker | X | | | | |
| Troutt | | | | X | |
| Student Member | | | | X | |

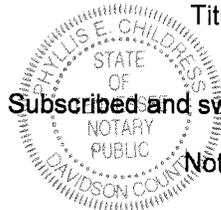
I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Board of Education on 01/30/2015, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed 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 ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 4/30/15

Signature: *Jan Heyburn*

Name of Officer: Dr. Sara Heyburn

Title of Officer: Executive Director



Subscribed and sworn to before me on: 4/30/15

Notary Public Signature: *Phyllis E. Childress*

My commission expires on: _____
January 9, 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.

Herbert H. Slatery III
Herbert H. Slatery III
Attorney General and Reporter

5/14/2015
Date

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Filed with the Department of State on: 05-29-15

Effective on: 08-27-15

Tre Hargett
Tre Hargett
Secretary of State

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 rule 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;

Effective April 28, 2014, Public Chapter 844 of the 108th General Assembly amended T.C.A. § 49-5-413(d)(3) on the investigation of applicants for teaching or child care positions. The amended section enumerates offenses which preclude convicted individuals from coming in direct contact with school children and children in child care programs, or entering the grounds of a school or child care center when children are present. The amended section also specifies that "conviction" includes convictions for the same or similar offense in any jurisdiction, and convictions for the solicitation of, attempt to commit, conspiracy, or acting as an accessory to any such offenses.

This rule amendment adds the offenses in Public Chapter 844 to the list of those offenses for which, if convicted, the State Board of Education will be entitled to automatically revoke or suspend a license or deny an application for a license. In such cases, the educator will not be entitled to a hearing in the suspension, revocation, or denial of his/her license. This rule also amends the definition of "conviction" to reflect the language in Public Chapter 844.

- (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;

N/A

- (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;

Teachers, School Boards, Directors of Schools. State Board staff urged adoption of this rule and no comments were received at the time of rulemaking.

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

N/A

- (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;

N/A

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

Angie Sanders
Angela.C.Sanders@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
Angela.C.Sanders@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

1st Floor, Andrew Johnson Tower
710 James Robertson Parkway
Nashville, TN 37243
Angela.C.Sanders@tn.gov
615-253-5707

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

N/A

0520-02-03-.09 DENIAL, FORMAL REPRIMAND, SUSPENSION AND REVOCATION

(1) 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, a sexual offense or a violent sexual offense as defined in 40-39-202, any offense in title 39, chapter 13, 39-14-301 and 39-14-302, 39-14-401 and 39-14-404, 39-15-401 and 39-15-402, 39-17-1320, or any other offense in title 39, chapter 17, part 13, 39-13-532, and/or 39-15-527 (including conviction on a plea of guilty or nolo contendere, conviction for the same or similar offense in any jurisdiction, or conviction for the solicitation of, attempt to commit, conspiracy, or acting as an accessory to such offenses). The Board will notify persons whose licenses are subject to automatic revocation at least thirty (30) days prior to the Board meeting at which such revocation shall occur.