

**Department of State  
Division of Publications**

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**For Department of State Use Only**

Sequence Number: 11-10-13  
Rule ID(s): 5606  
File Date: 11/27/13  
Effective Date: 4/30/14

## 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>	1 <sup>st</sup> Floor, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-253-5707
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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-.06	Graduation, Requirement E

Chapter 0520-01-03  
Minimum Requirements for the Approval of Public Schools  
Amendment/New

Rule 0520-01-03-.06(6)(a) The General Educational Development (GED) Testing Program and the Issuance of Equivalency Diplomas is amended by deleting the word "Education" and substituting instead "Labor and Workforce Development" so that, as amended, the new paragraph (a) shall read:

Rule 0520-01-03-.06(6)(a) The General Educational Development (GED) Testing Program and the Issuance of Equivalency Diplomas

- (a) The testing program is operated in accordance with the GED manual of the national GED office and rules established by the Department of Labor and Workforce Development.

Authority: Public Chapter 448 (2013), T.C.A. §§ 9-6-3001(c) and (c)(1), 49-6-3003, 49-6-3005(a) and (a)(4), 49-6-3104, 49-6-3105, 49-6-6201,

Rule 0520-01-03-.06(6)(d) The General Educational Development (GED) Testing Program and the Issuance of Equivalency Diplomas is amended by deleting paragraph (d) in its entirety and substituting instead the following language so that, as amended, the new paragraph (d) shall read:

Rule 0520-01-03-.06(6)(d) The General Educational Development (GED) Testing Program and the Issuance of Equivalency Diplomas

- (d) In order to pass, the average standard score on the GED test shall not be less than four hundred-fifty (450) and no score on any one (1) component of the test battery shall be less than four hundred-ten (410).

Authority: Public Chapter 448 (2013), T.C.A. §§ 9-6-3001(c) and (c)(1), 49-6-3003, 49-6-3005(a) and (a)(4), 49-6-3104, 49-6-3105, 49-6-6201,

Rule 0520-01-03-.06 is amended by adding paragraph (7) The High School Equivalency Testing (HiSET) Program and the Issuance of Equivalency Diplomas so that, as amended, the new paragraph (7) shall read:

Rule 0520-01-03-.06 The High School Equivalency Testing (HiSET) Program and the Issuance of Equivalency Diplomas

- (7) The High School Equivalency Testing (HiSET) Program and the Issuance of Equivalency Diplomas.
  - (a) The testing program is operated in accordance with the HiSET manual of the Education Testing Service and the rules established by the Department of Labor and Workforce Development.
  - (b) The chief examiners shall ensure that all examinees meet the state requirements for age, residency, proper identification, and any other qualifications prior to admission to the testing session.
  - (c) A candidate must be eighteen (18) years of age before being eligible to take the HiSET test. A seventeen (17) year old may be allowed to take the examination upon recommendation of the local school superintendent. The superintendent may require written documentation from the applicant to support this recommendation. This rule shall not be used to circumvent participation in the regular high school program.
  - (d) The HiSET test consists of five (5) core areas that count twenty (20) points each. In order to pass, the total composite score on the HiSET test shall not be less than forty-five (45) and no score on any one (1) core area of the test battery shall be less than eight (8).

Authority: Public Chapter 448 (2013), T.C.A. §§ 9-6-3001(c) and (c)(1), 49-6-3003, 49-6-3005(a) and (a)(4), 49-6-3104, 49-6-3105, 49-6-6201,

\* 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					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the State Board of Education on 06/21/2013, 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: 10/30/13

Signature: [Handwritten Signature]

Name of Officer: Dannelle F. Walker

Title of Officer: General Counsel

Subscribed and sworn to before me on: October 30, 2013

Notary Public Signature: [Handwritten Signature]

My commission expires on: May 8, 2017

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.

[Handwritten Signature]  
 Robert E. Cooper, Jr.  
 Attorney General and Reporter  
11-8-13  
 Date

Department of State Use Only

Filed with the Department of State on: 11/27/13

Effective on: 4/30/14



Tre Hargett  
Secretary of State

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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;

The current rule allowing the GED testing program references the Department of Education. Administration of the GED testing program was moved several years back to Labor and Workforce Development. The first amendment corrects the rule.

The GED test has been revised and new passing scores have been enacted. The second amendment corrects the rule.

The GED Testing Service, operated by the American Council on Education, was created as a public service for returning WWII veterans in 1942. It was made available to the public in 1944 and has operated as a non-profit organization until it was announced in October 2011 that it had been purchased by PearsonVue, an international, for-profit company. The concern for cost and accessibility was immediate with the first announcement by Pearson Vue that the cost would be \$200 (they have lowered the cost at this juncture to \$120). As limited information from PearsonVue became available, so did concern for data ownership as well as state choice and control over the credentials it issues.

Legislators in Tennessee expressed their concerns to Adult Education leadership and SB2511/HB2861 was introduced last year requiring The Department of Labor and Workforce Development to report its progress in developing an alternative to the education committees of the house and senate by February 1, 2013. That report was delivered. This year, additional legislation was introduced.

Pursuant to SB0105/HB0387 which calls for the creation of a pathway, other than the GED® diploma, to be implemented for individuals who did not graduate from high school which will be fully recognized by the State of Tennessee as its equivalent, the Department of Labor and Workforce Development offers the following:

After a full year of research by the Division of Adult Education and the University of Tennessee Center for Literacy, Education and Employment, a full year of monthly conference calls as a member of a 37-state coalition formed to consider options to the new GED® Test via monthly teleconference calls, presentations from vendors via teleconference sharing legislation and research, and the formation of a Task Force consisting of the agencies listed in SB105/HB378, it is the recommendation of this Division that the HiSET™ high school equivalency test developed by Educational Testing Services (ETS) through the University of Iowa be adopted as an alternative to the GED® Test in Tennessee beginning January 1, 2014.

- (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;

Public Chapter 448 (2013), T.C.A. §§ 9-6-3001(c) and (c)(1), 49-6-3003, 49-6-3005(a) and (a)(4), 49-6-3104, 49-6-3105, 49-6-6201,

- (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;

Adult Education advocates, adult education students, adult education programs

- (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;

Ms. Dannelle F. Walker  
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

Dannelle F. Walker  
Tennessee State Board of Education  
1<sup>st</sup> Floor, Andrew Johnson Tower  
Nashville, Tennessee 37243  
615-253-5707  
Dannelle.Walker@tn.gov

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

None.

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

(6) The General Educational Development (GED) Testing Program and the Issuance of Equivalency Diplomas.

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- ~~(d) In order to pass, the average standard score on the GED test shall not be less than four hundred-fifty (450) and no score on any one (1) component of the test battery shall be less than four hundred-ten (410). In order to pass, the average standard score on the GED test shall not be less than forty-five (45) and no score on any one (1) component of the test battery shall be less than thirty-five (35).~~

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