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**For Department of State Use Only**

Sequence Number: 12-16-11  
 Rule ID(s): 5085  
 File Date: 12/19/2011  
 Effective Date: 05/30/2012

## 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.*

|                                 |  |
|---------------------------------|--|
| <b>Agency/Board/Commission:</b> | State Board of Education                           |
| <b>Division:</b>                |  |
| <b>Contact Person:</b>          | Dannelle Walker                                    |
| <b>Address:</b>                 | 9th Floor, 710 James Robertson Pkwy, Nashville, TN |
| <b>Zip:</b>                     | 37243  |
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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                        |
|----------------|--------------------------------------|
| 0520-01-02     | ADMINISTRATIVE RULES AND REGULATIONS |
| Rule Number    | Rule Title                           |
| 0520-01-02-.05 | Adult High Schools                   |
|                |                                      |
|                |                                      |

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

**Chapter 0520-01-02  
Administrative Rules and Regulations  
Amendments**

Rule 0520-01-02-.05 Adult High Schools is amended by deleting the present language in its entirety and replacing it with the following:

- (1) Adult high schools may be established and maintained by local boards of education.
- (2) Before the Full-Time Enrollment Average Daily Membership (FTEADM) of any adult high school shall be counted in distribution of state funds, such schools shall meet the standards of an approved school and shall provide without fee all services, such as free textbooks, to which any student of grades 9 through 12 is entitled under rules and regulations of the State Board of Education, state and federal statutes, and policies of local boards of education, with the exceptions listed below:
  - (a) The computation of the FTEADM of adult high schools shall be on the basis of a four (4) hour day and twenty (20) day school month. The FTEADM for any month shall be determined by dividing the total hours for which persons were enrolled during the month by eighty (80).
  - (b) While in attendance at an adult high school, students may earn all or a portion of the required credits necessary for graduation. Physical education, however, shall not be a requirement for graduation. Students are exempted from state-mandated tests.
  - (c) Adult high schools may operate twelve (12) months per year and provide flexible scheduling necessary for both day and night programs. All terms in a year round operation are considered regular terms.
  - (d) Adult high school students must be at least seventeen (17) years of age.
  - (e) Adult high school students may register for and earn as few as half (1/2) unit of credit per term.

**Authority:** T.C.A. §§ 49-1-302; 49-2-203(b)(3) and 49-6-501.

\* 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   |    |         |        |                         |
| Woods        | 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 08/05/2011, and is in compliance with the provisions of TCA 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: 11-21-11

Signature: Gary Nixon

Name of Officer: Dr. Gary Nixon

Title of Officer: Executive Director



Subscribed and sworn to before me on: 11/21/11

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

12-13-11

Date

Department of State Use Only

Filed with the Department of State on: 12/19/2011

Effective on: 05/30/2012

Tre Hargett  
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.

(If applicable, insert Regulatory Flexibility Addendum here)

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)

There will be 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;

Part (b) of paragraph (2) of Rule 0520-01-02-.05 Adult High Schools be amended by the deletion of "Except for the Tennessee Proficiency Test" because this language is outdated and is no longer used to describe the testing programs in TN.

Part (c) of paragraph (2) of Rule 0520-01-02-.05 Adult High Schools be amended by the deletion of "provided hours per credit requirements are met." This recommendation stems from the recognition that seat time is not an adequate measure of student competency.

Part (d) of paragraph (2) of Rule 0520-01-02-.05 Adult High Schools be amended by the deletion of "and must have withdrawn from the regular school program." It was noted that some adult high schools offer credit recovery and other supports to traditional high school students who are *not* enrolled full-time at the adult high school. Removing this requirement clarifies confusion about such activities and allows for more innovation thereby supporting localized dropout prevention efforts.

Part (f) of paragraph (2) of Rule 0520-01-02-.05 Adult High Schools be amended by deletion of this part in its entirety which states that "To earn one unit of credit in an adult high school, a minimum of 133 contact hours per course shall be required." This recommendation stems from the recognition that seat time is not an adequate measure of student competency.

- (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. § 49-6-409: The law requires the Department of Education to develop alternative methods by which adult students attending adult high schools may meet requirements that condition the receipt of credit for a course on a minimum number of contact hours.

- (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;

Dr. David Sevier  
State Board of Education

Mr. James Witty  
State Department of Education

- (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. James Witty  
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  
9<sup>th</sup> Floor, 710 James Robertson Pkwy  
Nashville TENNESSEE 37243  
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[David.Sevier@tn.gov](mailto:David.Sevier@tn.gov)

Mr. James Witty  
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710 James Robertson Pkwy  
Nashville TENNESSEE 37243  
615-532-4768  
[James.Witty@tn.gov](mailto:James.Witty@tn.gov)

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

None.

RULES  
OF  
THE TENNESSEE DEPARTMENT OF EDUCATION  
THE STATE BOARD OF EDUCATION

CHAPTER 0520-01-02  
ADMINISTRATIVE RULES AND REGULATIONS

Rule 0520-01-02-.05 Adult High Schools is amended by deleting the present language and replacing it with the following:

- (1) Adult high schools may be established and maintained by local boards of education.
- (2) Before the FTEADM of any adult high school shall be counted in distribution of state funds, such schools shall meet the standards of an approved school and shall provide without fee all services, such as free textbooks, to which any student of grades 9 through 12 is entitled under rules and regulations of the State Board of Education, state and federal statutes, and policies of local boards of education, with the exceptions listed below:
  - (a) The computation of the FTEADM of adult high schools shall be on the basis of a 4 hour day and twenty (20) day school month. The FTEADM for any month shall be determined by dividing the total hours for which persons were enrolled during the month by 80.
  - (b) While in attendance at an adult high school, students may earn all or a portion of the required credits necessary for graduation. Physical education, however, shall not be a requirement for graduation. ~~Except for the Tennessee Proficiency Test, S~~students are exempted from ~~other state-mandated testing programstests~~.
  - (c) Adult high schools may operate twelve months per year and provide flexible scheduling necessary for both day and night programs, ~~provided hours-per-credit requirements are met.~~ All terms in a year round operation are considered regular terms.
  - (d) Adult high school students must be at least 17 years of age and ~~must have withdrawn from the regular school program.~~
  - (e) Adult high school students may register for and earn as few as 1/2 unit of credit per term.
  - (f) ~~To earn one unit of credit in an adult high school, a minimum of 133 contact hours per course shall be required.~~