

**Department of State  
Division of Publications**

312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower  
Nashville, TN 37243  
Phone: 615-741-2650  
Fax: 615-741-5133  
Email: [register.information@tn.gov](mailto:register.information@tn.gov)

**For Department of State Use Only**

Sequence Number: 12-24-14  
Rule ID(s): 5855  
File Date: 12/23/14  
Effective Date: 3/23/15

# 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>	Joanna E. Collins
<b>Address:</b>	1 <sup>st</sup> Floor, Andrew Johnson Tower 710 James Robertson Parkway Nashville, TN
<b>Zip:</b>	37243
<b>Phone:</b>	615-741-4928
<b>Email:</b>	joanna.collins@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
0520-01-02	Administrative Rules and Regulations
Rule Number	Rule Title
0520-01-02-.17	State Attendance Guidelines


State Attendance Guidelines  
Chapter 0520-01-02  
New

Chapter 0520-01-02 Administrative Rules and Regulations Table of Contents is amended to add new rule 0520-01-02-.17 State Attendance Guidelines and shall read as follows:

0520-01-02-.01	Definition of a Tennessee Public School	0520-01-02-.11	School Board Training
0520-01-02-.02	Salary Schedules	0520-01-02-.12	Waivers
0520-01-02-.03	Employment Standards	0520-01-02-.13	Fiscal Accountability Standards
0520-01-02-.04	Leave for Teachers	0520-01-02-.14	Recruitment, Employment, and Retention of African- American Teachers
0520-01-02-.05	Adult High Schools	0520-01-02-.15	Approval of Textbooks
0520-01-02-.06	Adult Education	0520-01-02-.16	Reporting Attendance Relative to Disciplinary Actions
0520-01-02-.07	Joint Career and Technical Centers	0520-01-02-.17	State Attendance Guidelines
0520-01-02-.08	Interscholastic Athletics	0520-01-02-.18	Repealed
0520-01-02-.09	Alternative Schools	through 520-01-02-.29	
0520-01-02-.10	Homebound Instruction for Pregnant Students		

Rule 0520-01-02-.17 State Attendance Guidelines is added to Chapter 0520-01-02 so that Administrative Rules and Regulations and the new rule shall read:

Rule 0520-01-02-.17 State Attendance Guidelines.

Each Local Education Agency (LEA) shall adopt an attendance policy that is firm, but fair; includes effective accounting and reporting procedures; accounts for extenuating circumstances; includes appeal procedures; and establishes and maintains alternative programs for students who fail to meet minimum attendance requirements.

Attendance policies should include remedies to address excessive absences that account for a student's social and emotional development and family support. Early intervention is a key aspect of a policy that effectively improves attendance. Efforts to improve attendance should include supports and interventions in elementary, middle, and high school levels to address and prevent chronic absenteeism.

- (1) The number of unexcused absences shall comply with T.C.A. § 49-6-3007. When appropriate, responses to and consequences for unexcused absences shall be handled within the school setting using relevant supports and interventions that address the underlying cause(s) for the unexcused absences. Nontraditional learning environments that improve student engagement such as online or distance learning, credit recovery, evening programs and flexible scheduling should be considered.
  - (a) Upon or before five (5) days of unexcused absences, the principal or designee shall notify the director of schools or designee and initiate meaningful communications with the student and their parent/guardian. The school shall attempt to determine the underlying cause(s) of the unexcused absences. When appropriate, a plan to improve school attendance should be initiated for the student.

- (b) Upon or before ten (10) days of unexcused absences, the principal or designee shall attempt to meet in person with the student and/or their parent/guardian, develop or refine the attendance plan, and provide necessary supports and services to improve school attendance. The principal or designee shall maintain documented attempts to meet with the student and their parent/guardian and the resulting attendance plan.
  - (c) The policy shall address the excusing of absences for reasons including but not limited to the following: injury, illness, pregnancy, hospitalization, homebound, summons, subpoena, court order, military, college visits, school-sponsored activities, school-endorsed activities, death of a family member, and extenuating circumstances determined on a case-by-case basis.
  - (d) To the extent possible, local district attendance policies should not be used to penalize students academically.
  - (e) The policy shall align with the McKinney-Vento Homeless Assistance Act [found at 42 U.S.C. § 11431, et seq.].
- (2) Whenever possible, attendance issues should be resolved at the school level. To ensure due process, LEAs must adopt a policy that affords students with excessive (more than 5) unexcused absences the opportunity to appeal. Such policy must, at minimum, include written or actual notice to the student or their parent/guardian and the opportunity to be heard. The burden of proof rests on the student or their parent/guardian. The appeal process for determining unexcused absences is ancillary to a truancy decision rendered by a juvenile court judge as described in T.C.A. § 49-6-3010.
  - (3) When an attendance policy has been adopted by the governing body of an LEA, a copy of the policy shall be posted at each school, and school counselors shall be supplied copies for discussion with students. The policy shall be referenced in all school handbooks. All teachers, administrative staff, and parents/guardians shall be provided copies of the policy.
  - (4) LEAs are encouraged to develop truancy boards, youth courts, or other alternative programs to serve as an intervention for students with excessive absences.

Authority: T.C.A. § 49-6-3002(a).

\* 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				
Chancey	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 State Board of Education on 04/11/2014, 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: 11-19-14

Signature: *Gary Nixon*

Name of Officer: Gary L. Nixon

Title of Officer: Executive Director



Subscribed and sworn to before me on: 11/19/14

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.

*Herbert H. Slatery III*  
 Herbert H. Slatery III  
 Attorney General and Reporter  
12/19/2014  
 Date

Department of State Use Only

Filed with the Department of State on: 12/23/14

Effective on: 3/23/15

*Tr Hargett*  
Tr Hargett  
Secretary of State

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;

T.C.A. §49-6-3002(a) requires the State Board of Education to promulgate rules on attendance that are firm, but fair; include effective accounting and reporting procedures; account for extenuating circumstances; include appeal procedures; and establish and maintain alternative programs for students who fail to meet minimum attendance requirements. No State Board rule currently exists that complies with the requirements in this law.

SBE staff and counsel drafted these rules with the idea that attendance rules need to be consistent across districts and also to provide districts with flexibility around creating their own attendance policies to meet the needs of individual school districts. Staff and counsel have also consulted with urban and rural school district leaders, attendance supervisors, juvenile court judges, and attorneys representing truant juveniles in the creation of this rule.

- (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. § 49-6-3002(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;

Students, State Attendance Officers, Principals, Directors of Schools, Parents/Guardians of Students. This rule was developed and refined over the course of two years using input from a variety of stakeholders. Feedback at the beginning was that the rule was too burdensome on LEAs. The Board responded by making revisions over time and made the rule more manageable to implement. A complete list of comments are attached.

- (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. Joanna E. Collins  
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. Joanna E. Collins  
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. Joanna E. Collins  
Tennessee State Board of Education  
1<sup>st</sup> Floor, Andrew Johnson Tower  
Nashville, Tennessee 37243  
615-741-4928  
joanna.collins@tn.gov

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

None.

State Attendance Guidelines.  
0520-01-02

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of the unexcused absences. When appropriate, a plan to improve school attendance should be initiated for the student.

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  - (e) The policy shall align with the McKinney-Vento Homeless Assistance Act [found at 42 U.S.C. § 11431, et seq.].
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- (3) When an attendance policy has been adopted by the governing body of an LEA, a copy of the policy shall be posted at each school, and school counselors shall be supplied copies for discussion with students. The policy shall be referenced in all school handbooks. All teachers, administrative staff, and parents/guardians shall be provided copies of the policy.
- (4) LEAs are encouraged to develop truancy boards, youth courts, or other alternative programs to serve as an intervention for students with excessive absences.

Authority: T.C.A. § 49-6-3002(a).