



BILL LEE
GOVERNOR

STATE OF TENNESSEE
DEPARTMENT OF EDUCATION
NINTH FLOOR, ANDREW JOHNSON TOWER
710 JAMES ROBERTSON PARKWAY
NASHVILLE, TN 37243-0375

PENNY SCHWINN
COMMISSIONER

Via Electronic Mail

December 8, 2022

Dr. James Sullivan, Director of Schools
Rutherford County Schools
2240 Southpark Drive
Murfreesboro, TN 37128

Re: Waiver Request for English as a Second Language (ESL) Programs

Dear Director Sullivan:

I am in receipt of your November 4, 2022 request for a waiver of State Board of Education Rule 0520-01-19-.03, requiring students who score less than 3.5 on the language proficiency assessment to receive one (1) hour of English language development (ELD) instruction. You requested this waiver as a result of certain students not receiving a full hour of ELD instruction due to their IEP requirements.

Pursuant to my authority under Tenn. Code Ann. § 49-1-201(d), and provided that your district provides no less than forty-five (45) minutes of ELD instruction, your waiver request is hereby granted for the remainder of the 2022-23 school year.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Dr. Penny Schwinn
Commissioner



Tennessee Department of Education – Office of The Commissioner

710 James Robertson Parkway - Andrew Johnson Tower, 9th Floor - Nashville, TN 37243

Local Education Agency Waiver Request

Pursuant to Tennessee Code Annotated § 49-1-201(d), upon application by the local education agency for one (1) or more of its schools, the commissioner of education may waive any state board rule or statute that inhibits or hinders the LEA's ability to meet its goals or comply with its mission. Please submit completed forms to Commissioner.Schwinn@tn.gov. Following review by the commissioner, the district will be notified in writing if the waiver request is approved or denied. Unless otherwise stated, all waivers granted by the commissioner shall be granted for one year terms.

Waivers may **not** be granted by the commissioner for regulatory or statutory requirements related to:

- (A) Federal and state civil rights;
- (B) Federal, state and local health and safety;
- (C) Federal and state public records;
- (D) Immunizations;
- (E) Possession of weapons on school grounds;
- (F) Background checks and fingerprinting of personnel;
- (G) Federal and state special education services;
- (H) Student due process;
- (I) Parental rights;
- (J) Federal and state student assessment and accountability;
- (K) Open meetings;
- (L) Educators' due process rights;
- (M) Reductions in teachers' salaries;
- (N) Employee rights, salaries and benefits; and
- (O) Licensure of employees.

Local Education Agency:

Rutherford County Schools

School Information (if applicable):

School Name:
Smyrna Middle School

Street:
712 Hazelwood Dr.

City: Smyrna, TN Zip Code: 37167

Please list the statute(s) and/or state board rule(s) for which waiver is being requested:

0520-01-19-.03
Chapter 0520-19
English As A Second Language Programs

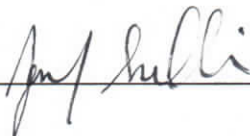
Explanation of how the statute(s) and/or state board rule(s) inhibits or hinders the local education agency's ability to meet its goals or comply with its mission:

The state board rule states that students who score less than 3.5 on the language proficiency assessment should receive an hour of English language development (ELD) instruction. (New state board ruling for 2022-2023 allows ELD time to be a class period and not a full hour.) There are 19 dual identified students (EL/SPED) at Smyrna Middle School who are not receiving a full hour of ELD service time due to their IEP requirements. They are receiving 45 minutes of ELD service time, because of their CDC and SPED requirements and the time limitations within the schedule. We are seeking a waiver for the additional 15 minutes due to the IEP requirements.

Expected duration of the condition necessitating this waiver request:

The waiver duration would be through May of 2023. New legislation now allows for ELD service time to be a "class period," rather than an hour, so a waiver would not be necessary for future schedules.

Director of Schools (Signature)



Print Name Dr. James Sullivan

Date 11/04/2022