



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

October 12, 2021

Richard T. Rye, Director of Schools
Humphreys County Schools
2443 Hwy 70 E
Waverly, TN 37185

Re: Waiver Requests

Dear Director Rye:

I am in receipt of your attached September 8, 2021 LEA Waiver Request Form requesting waivers of certain state laws and Tennessee State Board of Education (SBE) rules for Humphreys County Schools as needed due to the flooding that occurred in the district on August 21, 2021. The following waivers are approved to the extent necessary to allow you the flexibility you requested in the attached form for the 2021-2022 school year:

- Universal screening requirements, found in Tenn. Code Ann. § 49-1-905(c)(1);
- Class size limits, found in Tenn. Code Ann. § 49-1-104;
- Duty free lunch and planning time, found in Tenn. Code Ann. § 49-1-302(e)(1);
- School term, found in Tenn. Code Ann. § 49-6-3004; and
- Student grade requirements, found in Tenn. Code Ann. § 49-1-617(a), SBE Policy 2.102, SBE Policy 2.103, and SBE Rule 0520-01-03-.03(11)(d).

Your waiver request for maximum transit time, found in Tenn. Code Ann. § 49-2-2105, is granted for the 2021-22 school year upon the condition that no student is in transit for longer than 110 minutes.

Your requests regarding teacher evaluation pacing and observation, found in SBE Rule 0520-02-01-.02(3) and 0520-02-01-.03(f), are also approved for the 2021-22 school year unless an individual teacher requests additional observations.

As previously discussed, the following waiver requests have federal implications and will require additional review and conversations with the U.S. Department of Education. We will get back to you soon with responses to these requests:

- Annual School Improvement Plans, found in Tenn. Code Ann. § 49-1-613
- School Grading System, found in Tenn. Code Ann. § 49-1-228
- Performance designations for LEAs based on performance goals and measures, found in Tenn. Code Ann. § 49-1-602
- Accountability protocols

Please do not hesitate to call me if you have further questions.

Sincerely,

Dr. Penny Schwinn
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: *Humphreys Co. Board of Education*

School Information (if applicable):

School Name: *N/A*

Street:

City: _____ Zip Code: _____

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

See Attached (4 pages)

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:

See Attached

Expected duration of the condition necessitating this waiver request:

2021-22 school year

Director of Schools (Signature)



Print Name

Richard T. Rye

Date

9-8-21

Humphreys County Schools Waiver Requests

September 3, 2021

Rational for requesting waivers

On August 21, 2021 a catastrophic flood event occurred impacting Humphreys County. While the most of the county was affected in some way, the majority of the damage and loss of life occurred in Waverly. Three of the district's schools are located in Waverly: Waverly Elementary School serving grades PreK-3, Waverly Junior High School serving grades 4 – 8, and Waverly Central High School serving grades 9-12. Waverly Elementary School and Waverly Junior High School are located yards from the creek which was the cause of the flooding and sustained major damage. It is our belief that we cannot return students or staff to these buildings. Not returning to these facilities will displace approximately 1,100 students and staff. Waverly Central High School, located downstream on the western edge of town on higher ground, did not suffer significant damage and will be returned to service in a relatively short amount of time. Relocating the students and staff of the two schools within the district, while possible, will place a significant burden on personnel and infrastructure. The district offices, transportation shop and technology hub are located along the course of the same creek and were also heavily impacted by the flooding. The system lost the majority of the bus fleet, district technology infrastructure and district business offices. The Humphreys County Board of Education requests waivers for one year for the statutes, policies, rules and regulations listed below.

TCA 49-6-2105 Maximum time in transit

Efforts will be made to comply with the 1.5-hour maximum transit time. The road conditions in the county and the routing of students to temporary locations may make it difficult in some instances to comply with TCA 49-6-2105. Humphreys County Board of Education requests a one-year waiver for this statute.

TCA 49-1-905(c)(1) Universal Screening TRR/MS 0520-01-03-.15(2)

The flood event and the resulting displacement of students from our buildings has impacted instructional time and occurred during the first universal screening window. If this window, were pushed forward, there would not be enough time between the first and second screenings to provide an accurate assessment of student growth. Instead of screening three times as required by statute and rule, the district believes time would better be spent in Tier 1 instruction through the majority of the fall and screening two times during the year. The current damaged state of the technology infrastructure will not allow testing at this time. The Humphreys County Board of Education requests a one-year waiver from this statute and rule.

TRR/MS 0520-01-02-.31(4)(a)(b) Organization and Administration of Schools – Average/Maximum Class Size

Efforts will be made to stay within the average and maximum class sizes established by rule of the State Board of Education. TCA 49-1-104(f) allows the commissioner of education to grant a waiver for the enrollment of displaced students in the event of a natural disaster. The Humphreys County Board of Education requests a waiver of the average and maximum class size limits found in TRR/MS 0520-01-02-.31.

TRR/MS-0520-01-02-.31(6) Organization and Administration of Schools – Planning Time/Duty Free Lunch

Relocating students from affected facilities to other buildings in the district will cause situations where teachers may not be able to have duty free lunch or the required planning time. Students will most likely need to eat in classrooms and will need to be supervised. The Humphreys County Board of Education requests a waiver of the duty-free planning and lunch period requirements found in TRR/MS-0520-01-02-.31(6).

TCA 49-6-3004(6)(A) School Term

In the event of a natural disaster, the commissioner of education may waive for that school year the requirement of one hundred eighty days of instruction. The waiver request may be for the entire LEA or for individual schools within the LEA. District leadership believe that full 6-week term of summer programming for learning loss will be crucial for our students. The district has missed ten (10) days and the three schools in Waverly have missed fourteen (14) days due to catastrophic flash flooding. If these missed instructional days are added to the end of the calendar, summer programming will have to be shortened from the required six weeks to four weeks. District leadership believes that the full 6-week summer programming will be more beneficial than adding instructional days to the end of the calendar after state testing and the Memorial Day holiday. The Humphreys County Board of Education requests a waiver for the ten (10) instructional days missed due to flooding by the LEA and the fourteen (14) missed by the three Waverly schools for the 2021-2022 school year.

TCA 49-1-613 Annual School Improvement Plans
SBE Policy 2.101 District and School Improvement Planning

Due to the timing of the catastrophic flood event, all schools in the district have missed the September 1 deadline to complete the school improvement plan process. Any needs assessment conducted prior to August 21, 2021 is no longer valid. The Humphreys County Board of Education requests a waiver of the annual school improvement plan process for the 2021-22 school year. The district will submit its annual improvement plan on schedule in the spring.

TRR/MS-0520-02-01-.02(3) Evaluation Timeline

Delay of resumption of school and relocation of students throughout the county has compressed the time available for teacher observations. The Humphreys County Board of Education requests a waiver of the evaluation timeline established by the Tennessee Department of Education under rule 0520-02-02-.02(3). In many circumstances, school leaders may not be able to conduct half of the evaluations first semester and half second. The district requests the flexibility to conduct more than half of the evaluations second semester.

TRR/MS-0520-02-01-.03(f) Evaluation Pacing SBE Policy 5.201 Section 2 Evaluation Pacing

Relocation of students throughout the county has increased the administrative load for all school administrators. A waiver relative to teacher evaluation is requested for State Board of Education Policy 5.201 Section 2 which sets the pacing requirements per licensure status and previous Level of Overall Effectiveness. The district requests that the minimum required observations for all teachers be one (1) formal observation covering all domains and two walk-through observations.

TCA 49-1-228 School grading system

The Humphreys County Board of Education requests a waiver of implementation of the school grading system for the 2021-22 school year.

TCA 49-1-617(a) SBE Policy 2.102 Section III (6) SBE Policy 2.103 Section VI (3)(g) Assessment TRR/MS-0502-01-03-.03(11)(d)

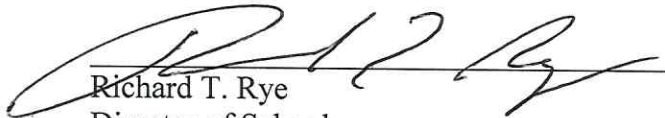
The statute, rules and policies listed above require a minimum percentage of student final grade to include TCAP and end of course test results for students in grades 6-12. Current Humphreys County Board of Education policy has the percentage set at 15% for all students. The Humphreys County Board of Education requests a waiver of the minimum percentage required by the statutes, policies and rules listed above to have flexibility to set the 15% requirement in local board policy to 0% for the 2021-22 school year upon recommendation of the director of schools.

TCA 49-1-602 Performance designations for LEAs based on performance goals and measures

The Humphreys County Board of Education requests a waiver excluding the use of any student growth data from the Tennessee comprehensive assessment program (TCAP) administered in the 2021-22 school year from being used to identify a school as a priority school or to assign a school to the achievement school district.

Accountability Protocol - page 37 - 3.6 Chronically Out of School

The Humphreys County Board of Education requests flexibility in the calculation of Chronically Out of School. Many students will have absences related to displacement. These absences could include moving, mental health appointments, court or FEMA appointment, etc. The Board asks that these absences be coded for attendance so that they will not be factored in the numerator of the formula to calculate absentee rate.


Richard T. Rye
Director of Schools
Humphreys Co. Board of Education

9-8-21
Date