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English as a Second Language (ESL) Programs Rule 0520-01-19

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**The Background:**

In the 2022 legislative session, Governor Lee and the Tennessee General Assembly passed the Tennessee Investment in Student Achievement (TISA) Act that will transition the state to a student-based funding approach starting in the 2023-24 school year. Due to passage of TISA and to ensure alignment with the proposed Department of Education rules necessary to implement TISA, changes must be made to State Board of Education Rule 0520-01-19 on English as a Second Language (ESL) Programs. In addition to these changes, this item also provides further detail regarding the development and implementation of individualized learning plans (ILPs) for English Learners (ELs) required by the proposed TISA rules.

This item also amends the rule's current requirement that local education agencies (LEAs) provide EL students with at least one (1) hour per day of direct ESL services. This one-hour requirement has proven too prescriptive for middle and high schools utilizing 45-minute class periods. Accordingly, this item proposes that LEAs must provide ELs in middle and high school at least one (1) hour of direct ESL service per school day, or the equivalent of one full-class period of at least 45 minutes in duration per school day. This ensures that schools utilizing 45-minute class periods are no longer required to pull EL students out of other classes for 15 minutes in order to meet the one (1)hour requirement.

Lastly, this item proposes clarifications regarding:

- The timeline for identification of EL students;
- The provision of direct versus indirect services; and
- Tailoring of service hours for EL students in Kindergarten.

State Board staff held a rulemaking hearing on September 29, 2022 to collect public feedback. Comments were submitted at both the hearing and in writing during the public comment period.

Minor revisions were made between first and final reading to alphabetize the definitions section of the rule and make other clerical edits to align with the Department's TISA rules. Revisions were also made to clarify required vs. optional members of an ILP team based on public comment. Additional revisions to Department guidance will be made to address public comments relating to implementation of the rule.

**The Fiscal Analysis Impact:**

T.C.A. § 49-1-212 requires that the Department prepare a fiscal analysis of any policy, rule, or regulation proposed to the State Board of Education. This item has no financial impact on the Department, the State Board, or any LEA or public charter school.

**The Recommendation:**

The Department of Education recommends approval of this item on final reading. The SBE staff concurs with this recommendation.