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Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	State Board of Education
Division:	N/A
Contact Person:	Angie Sanders
Address:	500 James Robertson Parkway, 5 th Floor, Nashville, TN 37243
Phone:	(615) 253-5707
Email:	Angela.C.Sanders@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Angie Sanders
Address:	500 James Robertson Parkway, 5 th Floor, Nashville, TN 37243
Phone:	(615) 253-5707
Email:	Angela.C.Sanders@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway		
Address 2:	Davy Crockett Building, Conference Room 1C, 1 st Floor		
City:	Nashville, TN		
Zip:	37243		
Hearing Date :	09/04/2020		
Hearing Time:	1:00 PM	<input type="checkbox"/> X <input type="checkbox"/>	<input type="checkbox"/> EST/EDT

Additional Hearing Information:

*****Anyone wishing to participate electronically may access the hearing using the following information:****
URL: <https://tngov.webex.com/tngov/j.php?MTID=mff4e5c6d662e576bcdace6907ca135be>
Password: SBERules
Phone: 415-655-0003
Access code: 161 246 6354

Please check the State Board's website at <https://www.tn.gov/sbe/meetings.html> for any additional information regarding this rulemaking hearing. **If prohibitions on in-person gatherings due to COVID-19 prevent this hearing from occurring in-person, such information will be posted on the State Board's website and all attendees will utilize the above information to participate electronically.**

Oral comments are invited at the hearing.
 In addition, written comments may be submitted via email at angela.c.sanders@tn.gov or mailed to:
 Tennessee State Board of Education

Attention: Angie Sanders
Davy Crockett Tower, 5th Floor
500 James Robertson Parkway
Nashville, Tennessee 37243.

Written comments must be received by 4:30 PM CT on September 9, 2020 in order to ensure consideration. For further information, please contact Angie Sanders at the above address or by e-mail at angela.c.sanders@tn.gov

If attending the hearing in-person, please bring identification so that you may be checked into the building by security. Conference room 1C is located on the first floor of the building.

Revision Type (check all that apply):

- Amendment
 New
 Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0520-02-03	Educator Licensure
Rule Number	Rule Title
0520-02-03-.09	Denial, Formal Reprimand, Suspension, and Revocation
0520-02-03-.12	Permits

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-02-03
EDUCATOR LICENSURE**

0520-02-03-.09 DENIAL, FORMAL REPRIMAND, SUSPENSION AND REVOCATION.

(1) Definitions and Examples:

- (a) Conviction – Means a judgment entered by a court upon a plea of guilty, a plea of nolo contendere, a finding of guilt by a jury or the court notwithstanding any pending appeal or habeas corpus proceeding arising from the judgment. Conviction includes, but is not limited to, a conviction by a federal court or military tribunal, including a court-martial conducted by the armed forces of the United States, and a conviction, whether upon a plea of guilty, a plea of nolo contendere, or a finding of guilt by a jury or the court, in any other state of the United States, other jurisdiction, or other country. Conviction also includes a plea taken in conjunction with Tennessee Code Annotated (“T.C.A.”) § 40-35-313 or its equivalent in any other jurisdiction.
- (b) Dismissed— With regard to employment action taken by an employing public or non-public school or school system, dismissed means the termination of a licensed educator’s employment with the school or school system or non-renewal of the educator’s contract.
- (c) Formal Reprimand – A less harsh licensing action than the suspension, revocation, or denial of a license, which admonishes an educator for certain conduct under this rule. An educator who has been reprimanded by the Board shall receive a letter from the State Board of Education, which shall become part of the educator’s state record and may become part of the educator’s local record, indicating that the inappropriate conduct is discouraged and shall be subject to further disciplinary action if repeated.
- (d) Inappropriate Communication (Explicit) – Any communication between an educator and a student that describes, represents, or alludes to sexual activity or any other illegal activity. This includes, but is not limited to, communication defined as sexual misconduct under T.C.A. § 49- 5-417, communication defined as sexually related behavior under T.C.A. § 49-5-1003(b)(15), and communication that would encourage illegal activity such as encouraging the use or purchase of illegal substances. This shall not be construed to prevent an educator from communication regarding sexual or illegal activities for educational purposes such as in teaching family-life curriculum pursuant to T.C.A. §§ 49-6-1307 et seq. or drug abuse resistance education pursuant to T.C.A. § 49-1-402 or to prevent an educator from upholding the educator’s obligation as a mandatory reporter of child abuse, neglect, or child sexual abuse.
- (e) Inappropriate Communication (Non-Explicit) – Any communication between an educator and a student that is beyond the scope of the educator’s professional responsibilities. Examples of such non-explicit inappropriate communications include, but are not limited to, those communications that discuss the educator’s or student’s past or current romantic relationships; those that include the use of profanities or obscene language; those that are harassing, intimidating, or bullying; those that attempt to establish an inappropriate personal relationship with a student; and those that are related to personal or confidential information regarding another school staff member or student.

- (f) Inappropriate Physical Contact – Unlawful and/or unjustified physical contact with a student. Examples of such inappropriate physical contact include, but are not limited to, sexual contact, physical altercations, horseplay, tickling, improper use of corporal punishment, and rough housing.
- (g) Inappropriate Physical Contact With Harm – Inappropriate physical contact as described in subparagraph (f) above that results in physical or mental harm.
- (h) Negligence – Failure to exercise the care toward others that a reasonable or prudent person would exercise under the circumstances or taking action that a reasonable person would not. Examples of such negligence include, but are not limited to, situations that expose students to mental or physical harm or the potential for mental or physical harm such as leaving dangerous items in the classroom or in areas easily accessible to students and leaving students unattended.
- (i) Non-compliance with security guidelines for TCAP or successor test – Any person found to have not followed security guidelines for administration of the TCAP or a successor test, including but not limited to, making or distributing unauthorized photos or copies of the test, altering a grade or answer sheet of student responses or answers, providing copies or photos of answers or test questions to students or others, and otherwise compromising the integrity of the testing process (which includes, but is not limited to, providing unauthorized assistance to students during administration of testing).
- (j) Official School Business – Any activity undertaken by an educator in an official capacity and in connection with the educator’s employment. Examples include, but are not limited to, conferences, professional development, trainings, and seminars.
- (k) Other Good Cause – Conduct that calls into question the fitness of an educator to hold a license including, but not limited to, violation of any provision in the Teacher Code of Ethics as contained in T.C.A. §§ 49- 5-1001, et seq.
- (l) Permanent Revocation – The nullification of an educator’s license without eligibility for future restoration. Permanent revocation shall also include the voluntary permanent surrender of an educator’s license without eligibility for future restoration.
- (m) School Premises – Any real property and/or land owned, leased, managed, controlled, or under the custody of a state or local education agency, school system, or school.
- (n) School Property – Any property owned, leased, managed, controlled, or under the custody of a state or local education agency, school system, or school.
- (o) School Related Activity – Any activity in which a student participates, including but not limited to classes, meetings, extracurricular activities, clubs, athletics, and field trips, sponsored by the school, state educational agency, or local educational agency.
- (p) Suspension – With regard to licensure action by the State Board, suspension means the nullification of an educator’s license for a predetermined term, after which the license is reinstated. Reinstatement may be subject to the completion of terms and conditions contained in the order of suspension. With regard to employment action taken by a public or non-public school or school system, suspension means the temporary removal of an educator from his or her regular duties with or without pay. Suspension includes the placement of an educator on administrative leave pending investigation into allegations of misconduct.
- (q) Revocation– The nullification of an educator’s license for a period of at least five (5) years,

after which an educator may petition the State Board for restoration under paragraph (6)(b). Revocation shall also include the voluntary surrender of an educator's license for a period of at least five (5) years, after which an educator may petition the State Board for restoration under paragraph (6)(b).

(2) Notification to the State Board of Education –

(a) Licensed Educators - It is the responsibility of the Director of Schools of the employing public or non-public school or school system or Director of a public charter school ("Director") to inform the State Board of licensed educators who have been suspended or dismissed, or who have resigned, following allegations of misconduct, including sexual misconduct, which, if substantiated, would warrant consideration for license suspension, revocation, or formal reprimand under this rule. The report shall be submitted within thirty (30) days of the suspension, dismissal, or resignation. The Director shall also report felony convictions and convictions for any offense listed in paragraph 4(a) of this rule of licensed educators within thirty (30) days of receiving knowledge of the conviction. Schools and school systems have a duty to respond to State Board inquiries and provide to the State Board, except when prohibited by law, any available documentation requested concerning the allegations contained in the report. If the State Board receives information regarding a licensed educator who was not reported as described in this paragraph, and such information, if substantiated, would warrant licensure action under this rule, the State Board reserves the right to place a hold on an educator's license file in the state's educator licensure database (TN Compass).

(b) Educators Teaching on a Permit – Directors may report individuals teaching on a temporary permit to the State Board under the same conditions outlined in the above paragraph (2)(a). Schools and school systems have a duty to respond to State Board inquiries and provide to the State Board, except when prohibited by law, any available documentation requested concerning the allegations contained in the report. If the State Board receives information regarding an individual teaching on a permit who was not reported as described in this paragraph, and such information, if substantiated, would warrant disciplinary action under this rule, the State Board reserves the right to place a hold on an individual's file in the state's educator licensure database (TN Compass).

(3) The State Board of Education may revoke, suspend, formally reprimand, or refuse to issue or renew an educator's license for any of the following reasons:

- (a) Conviction of a felony;
- (b) Conviction of possession of illegal drugs;
- (c) Being on school premises, school property, at a school-related activity involving students, or on official school business, while possessing, consuming, or under the influence of alcohol or illegal drugs;
- (d) Falsification or altering of a license or documentation required for licensure;
- (e) Inappropriate physical contact with a student;
- (f) Failure to report as required under paragraph (2);
- (g) Noncompliance with security guidelines for TCAP or successor test;
- (h) Denial, formal reprimand, suspension, or revocation of a license or certificate in another jurisdiction for reasons which would justify denial, formal reprimand, suspension, or revocation under this rule;

- (i) Other good cause as defined in subparagraph (1)(k) of this rule; or
 - (j) Any offense contained in paragraphs (4) and/or (5) of this rule.
- (4) Automatic Revocation and Suspension
- (a) Automatic Revocation of License – The State Board of Education shall automatically revoke or automatically permanently revoke, without the right to a hearing, the license of an educator for the following:
 - 1. Upon receiving verification of the identity of the licensed educator together with a certified copy of a criminal record showing that the licensed educator has been convicted of any the following offenses (including conviction for the same or similar offense in any jurisdiction). Educators whose conviction includes a plea taken in conjunction with T.C.A. § 40-35-313 or its equivalent in any other jurisdiction shall not be subject to automatic permanent revocation.
 - (i) Communicating a threat concerning a school employee, as described in T.C.A. § 39-13-114;
 - (ii) Statutory rape by an authority figure, as described in T.C.A. § 39-13-532;
 - (iii) Arson or aggravated arson, as described in T.C.A. § 39-14-301 and § 39-14-302;
 - (iv) A burglary offense, as described in T.C.A. § 39-14-401 - § 39-14-404;
 - (v) Child abuse, child neglect, or child endangerment, as described in T.C.A. § 39-15-401;
 - (vi) Aggravated child abuse, aggravated child neglect, or aggravated child endangerment, as described in T.C.A. § 39-15-402;
 - (vii) Providing handguns to juveniles, as described in T.C.A. § 39-17-1320;
 - (viii) A sexual offense or a violent sexual offense, as described in T.C.A. § 40-39-202;
 - (ix) A felony offense in title 39, chapter 13;
 - (x) A felony offense in title 39, chapter 17, part 13; or
 - (xi) Any offense listed in T.C.A. § 39-17-417 or § 40-35-501(i)(3); or
 - 2. Being identified by the Department of Children’s Services (DCS), after having exhausted or waived all due process rights available to the licensed educator, as having committed child abuse, severe child abuse, child sexual abuse, or child neglect; or
 - 3. The licensed educator’s name being placed on the state’s vulnerable person’s registry or the state’s sex offender registry.
 - (b) The Board shall notify persons whose licenses are subject to automatic

revocation or automatic permanent revocation at least thirty (30) days prior to the board meeting at which such revocation shall occur.

- (c) Automatic Suspension of License – The State Board of Education shall automatically suspend, without the right to a hearing, the license of an educator upon receiving notice from the responsible state agency of the identity of the licensed educator together with notification that the educator has committed any of the following offenses:

1. Default on a student loan pursuant to T.C.A. § 49-5-108(d)(2), provided, however, pursuant to T.C.A. § 49-5-108(d)(2)(B), the State Board of Education may elect not to suspend, deny, or revoke the license or certificate of a teacher if the default or delinquency is the result of a medical hardship that prevented the person from working in the person's licensed field and the medical hardship significantly contributed to the default or delinquency; or
2. Failure to comply with an order of support for alimony or child support, pursuant to T.C.A. § 36-5-706.
3. The Board shall notify persons whose licenses are subject to automatic suspension at least thirty (30) days prior to the board meeting at which such suspension shall occur.

(5) Disciplinary Actions

- (a) For the following categories of offenses, the State Board of Education shall impose uniform disciplinary action upon its findings as detailed below:

1. Conviction of a felony
 - (i) Upon receiving notification that an individual has been convicted of a felony, the educator shall be subject to disciplinary action within the range of a suspension of not less than two (2) years up to and including permanent revocation of the convicted individual's educator license.
2. Use, possession, or under the influence of alcohol or illegal substances
 - (i) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol, or illegal substances while on school premises or property when children are present shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.
 - (ii) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol, or illegal substances while on school premises or property without children present shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation.
 - (iii) An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol or illegal substances while not on school premises or property, but while

participating in school related activities with children present, shall be subject to a disciplinary action within the range of suspension for not less than one (1) year up to and including revocation. An individual holding an educator's license who is found to be in possession of, consuming, or under the influence of alcohol or illegal substances while not on school premises or property, but participating in school related activities without children present, shall be subject to a disciplinary action within the range of suspension for not less than six (6) months up to and including a two (2) year suspension.

3. Negligence in the commission of duties as an educator

- (i) An individual holding an educator's license who is found to be negligent in his or her commission of duties as an educator in such a manner that does not result in harm to a child, but presented the potential for physical or mental harm, shall be subject to a disciplinary action within the range of a letter of formal reprimand up to and including a two (2) year suspension.
- (ii) An individual holding an educator's license who is found to be negligent in their commission of duties as an educator in such a manner that results in harm to a child, shall be subject to a disciplinary action within the range of suspension for no less than one (1) year up to and including permanent revocation.

4. Noncompliance with security guidelines for TCAP or successor test

- (i) An individual holding an educator's license who is found to have been noncompliant with security guidelines for TCAP or successor test shall be subject to a disciplinary action within the range of a letter of formal reprimand up to and including a suspension not to exceed two (2) years.

5. Unprofessionalism

- (i) An individual holding an educator's license who is found to have engaged in non- explicit inappropriate communication with a student shall be subject to a disciplinary action within the range of a suspension for no less than three (3) months up to and including revocation.
- (ii) An individual holding an educator's license who is found to have engaged in inappropriate communication of an explicit nature with a student shall be subject to permanent revocation.
- (iii) An individual holding an educator's license who is found to have inappropriately used school property shall be subject to a disciplinary action within the range of a suspension for no less than three (3) months up to and including revocation.

6. Inappropriate Physical Contact

- (i) An individual holding an educator's license who is found to have engaged in inappropriate physical contact with a student that does not result in harm or potential harm to the student shall be subject to a disciplinary action within the range of a formal reprimand up to and including suspension for two (2) years.

- (ii) An individual holding an educator’s license who is found to have engaged in inappropriate physical contact with a student that results in harm or potential harm to the student shall be subject to a disciplinary action within the range of a suspension for not less than two (2) years up to and including permanent revocation.
 - 7. Falsification of Licensure Documentation – An individual holding an educator’s license who is found to have falsified licensure documentation shall be subject to a disciplinary action within the range of revocation or permanent revocation.
 - 8. Violation of the Teacher Code of Ethics – An individual holding an educator’s license who is found to have violated the teacher code of ethics contained in T.C.A. Title 49, Chapter 5, Part 10 shall be subject to a disciplinary action within the range of a formal reprimand up to and including revocation.
 - (b) Similar offenses – Actions related or similar to the above-enumerated offenses in paragraphs (3), (4), and (5)(a) shall carry recommended disciplinary action commensurate with the range established for the similar offense.
 - (c) Reasonable Force – Nothing in this part shall prevent an educator from exercising his or her lawful authority to use reasonable force when necessary under the circumstances to correct or restrain a student or prevent bodily harm or death to another person pursuant to T.C.A. § 49- 6- 4107.
 - (d) Repeated violations – Individuals holding an educator’s license who are subject to multiple disciplinary actions by the Board shall face disciplinary action in excess of the recommended ranges. A third violation, regardless of severity, shall be subject to a recommendation of revocation.
 - (e) Discipline Range – Nothing in this rule shall prohibit the State Board from imposing a disciplinary action outside of the uniform discipline range upon good cause shown in extraordinary circumstances.
 - (f) Eligibility for Employment during Review – A hold on an individual’s educator licensure database file (TN Compass) and the notation that an educator’s license is under review by the State Board does not prohibit a licensed educator from being employed by a school or school system, as that educator still has an active license.
- (6) Issuance of Permits.
- (a) The Commissioner of Education (“Commissioner”) may grant, on behalf of the State Board, under conditions outlined in T.C.A. § 49-5-106(a)(1), State Board Rule 0520-02-03-.12 and these rules, a permit to an unlicensed individual to teach in an unfilled position, which permit shall be valid only until June 30 following the date of issuance.
 - 1. The permit application of any individual who indicates an affirmative answer on the personal affirmation section of the application shall be sent by the Commissioner to the State Board for review in accordance with this rule for a determination of whether the permit may be issued by the Commissioner. If an individual indicates an affirmative answer on the

personal affirmation section of the application for a permit, the individual shall show why the permit should be issued despite the individual's affirmative answers. Issuance of a permit is considered on a case-by-case basis and the burden of proof rests with the individual applying for the permit. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period has been completed. Additionally, an application for issuance of a permit may be denied if an action against the individual's license has been taken or is pending in another state.

2. There shall be a rebuttable presumption that any individual applying for a permit who has committed an offense that would subject him or her to discipline under this rule shall be presumed ineligible to receive a permit.
3. Individuals seeking renewal of a permit shall be treated the same as individuals seeking the issuance of a new permit due to the statutory requirement in T.C.A. § 49-5-106(a)(1) that a permit shall expire on June 30 following the date of issuance.

(b) If an individual teaching on a permit issued by the Commissioner is reported by a Director as described above in paragraph (2) and the misconduct, if substantiated, would warrant disciplinary action under this rule, the State Board may direct the Commissioner not to issue or renew a permit upon expiration of the individual's current permit pursuant to T.C.A. § 49-5-106(a).

1. Case Review - Board counsel shall present an initial recommendation regarding granting or denying a permit application to the case review committee consisting of Board staff who shall review the entire file to determine whether to recommend issuance or denial of an application for a permit. The case review committee may also determine that additional investigation is necessary before a recommendation can be made.
2. If the case review committee recommends that the Board direct the Commissioner to deny an application for a permit under this rule, said denial will be presented to the Board at a regularly scheduled Board meeting. Board counsel will notify individuals of the denial recommendation and the Board's policy regarding requests to speak at Board meetings.

(c) If an individual teaching has had an application for a permit denied by the Commissioner, the individual must indicate such on any future application for an educator license or permit in Tennessee.

(7) Reinstatement or Restoration of a License

(a) Reinstatement

1. An individual whose license has been suspended under this rule may have his or her educator license reinstated after the period of suspension has been completed, and, where applicable, the individual has presented proof of compliance with all terms prescribed by the State Board. Suspended licenses are subject to the expiration and renewal rules of the State Board. A suspended license may not be reinstated if an action has been taken or is pending against the educator's license in another state.

(b) Restoration

1. An individual whose license has been revoked under this rule may apply to the State Board to have the license restored upon application showing that the cause for revocation no longer exists and that the person has complied with any terms imposed in the order of revocation. To show the cause no longer exists, the individual shall show why the license should be restored despite the misconduct that resulted in the individual's license being revoked. The individual shall provide evidence of rehabilitation and fitness to perform the duties authorized and required by the license sought. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period, has been completed. Application for such restoration shall be made to State Board counsel.
2. An individual whose license has been revoked under this rule shall not be eligible to reapply for licensure for a period of no less than five (5) years from the time at which the license was initially revoked. An individual whose license has been permanently revoked shall not be eligible to reapply for licensure.
3. In any deliberation by the Board of Education to restore a license that has been revoked, there shall be a rebuttable presumption that an individual whose license has been revoked is unfit for licensure. Nothing in this section is intended to guarantee restoration of a license.
4. Restoration of an educator license is considered on a case-by-case basis. The burden of proof rests with the individual applying for restoration of the license. An application for restoration may be denied if an action against the individual's educator license has been taken or is pending in another state.

(8) Denial of a License

- (a) An individual who has been denied an educator license may reapply for a license at any point after denial provided the individual has complied with any terms imposed in the order of denial. If the individual indicates an affirmative answer on the personal affirmation section of the application for a Tennessee educator license, the individual shall show why the license should be issued despite the individual's affirmative answers. Issuance of a license is considered on a case-by-case basis and the burden of proof rests with the individual applying for the license. In the case of a felony conviction, the individual shall also show that any sentence imposed, including any pre-trial diversion or probationary period has been completed. An application for issuance of a license may be denied if an action against the individual's license has been taken or is pending in another state.
- (b) Presumptive Denial – There shall be a rebuttable presumption that any individual applying for an educator license who has committed an offense that would subject him or her to revocation or suspension shall be presumed ineligible to receive a Tennessee educator license.

- (9) Scope of Disciplinary Action – An individual whose license has been denied, suspended, or revoked may not serve as a volunteer or be employed, directly or indirectly, as an educator, paraprofessional, aide, substitute teacher, or in any other position during the period of the denial, suspension, or revocation.

- (10) Duty to Maintain Updated Contact Information - Individuals have a duty to maintain up-to-date contact information, including but not limited to address, e-mail address, and phone number, in the state of Tennessee's educator licensure database (TN Compass). Any changes to the individual's contact information shall be updated by the educator in the educator license database (TN Compass) within thirty (30) days of the change.
- (11) Case Review - Board counsel shall present an initial recommendation for licensure action or non- action to a case review committee consisting of Board staff who shall review the entire file to determine whether disciplinary action should be recommended to the Board against an individual's license, or whether to issue, renew, restore, or reinstate an individual's license. The case review committee may also determine that additional investigation is necessary before a recommendation can be made.
- (12) Denial of an Initial Application or Application to Reactivate an Expired License - If the case review committee recommends that the Board deny an initial application for a Tennessee educator license or an application to reactivate an expired license under these rules, said denial will be presented to the Board at a regularly scheduled Board meeting. Board counsel will notify individuals of the denial recommendation and the Board's policy regarding requests to speak at Board meetings.
- (13) Proposed Action and Due Process Rights-- If the case review committee recommends that the Board formally reprimand, suspend, or revoke an individual's license or deny the renewal of an individual's license under paragraphs (3) or (5) of this rule, or that the Board deny restoration under paragraph (7), Board counsel shall send written notice to the individual using the individual's contact information in the State of Tennessee's educator licensure database (TN Compass) regarding the proposed licensure action and that they are entitled to request that a hearing be conducted as a contested case under the Uniform Administrative Procedures Act ("UAPA"), T.C.A. §§ 4-5-301, *et seq.*, and the individual's right to show compliance pursuant to T.C.A. § 4-5-320(c). Board counsel may also include a proposed consent order to be agreed to by the individual. Should the individual fail to request a hearing within the specified time period or take action with regard to the consent order, a contested case proceeding shall be instituted against him or her, of which the individual shall receive separate notice directing him or her to appear at a specified time and place for a hearing to be held before an Administrative Law Judge ("ALJ") pursuant to the UAPA, T.C.A. §§ 4-5-301, *et seq.* Should the individual fail to appear, a default judgment may be taken against his or her license. If the individual requests a hearing, then Board counsel schedules a hearing to be conducted as a contested case proceeding with an ALJ pursuant to the UAPA. The Board or the individual may appeal the Initial Order of the ALJ to the Board or to Chancery Court in Davidson County, Tennessee, pursuant to the UAPA, or seek reconsideration from the ALJ. Following a contested case proceeding before an ALJ in which license action was ordered against an individual, Board counsel may request that the ALJ order reasonable costs associated with the contested case proceeding be assessed against the individual pursuant to T.C.A. § 49-5-XXX. The reasonable costs associated with the contested case proceeding will be determined by the ALJ based upon billing received from the State of Tennessee Department of State Administrative Procedures Division.
- (14) Consent Order/Action - If the individual consents to the proposed licensure action, Board counsel shall present the consent order to the Board for approval. The Board is not bound by the recommendation contained in the consent order. The Board may vote to approve the consent order, to impose less harsh disciplinary action, or to pull the item from the agenda for reconsideration of a harsher disciplinary action. If a harsher disciplinary action is recommended by the Board, Board counsel shall send a new notice to the individual regarding his or her right to request a hearing pursuant to

paragraph twelve (12) of this rule.

- (15) Discipline Schedule – The following chart outlines the least and greatest disciplinary ranges for the offenses listed as indicated by the shaded squares, provided that the Board may impose discipline outside of the stated range as provided in paragraph (5)(e) of this rule.

	Letter of Formal Reprimand	Suspension of 3 months up to and including 6 months	Suspension of 6 months up to and including 1 Year	Suspension of 1 Year up to and including 18 Months	Suspension of 18 months up to and including 2 Years	Suspension of 2 years up to and including Revocation	Revocation	Permanent Revocation
Noncompliance with security guidelines								
Director of Schools Failure to Report								
Negligence w/o Harm or with potential for harm)								
Inappropriate Physical Contact w/o Harm								
Unprofessionalism - Inappropriate Communication (Non-Explicit)								
Unprofessionalism - Inappropriate Use of School Property								
Possession/Use/Under Influence - Off School Premises/Property w/o Children Present During School Related Activity								
Possession/Use/Under Influence - Off School Premises/Property w/ Children								
Possession/Use/Under Influence - On School Premises/Property w/o Children								
Possession/Use/Under Influence - On School Premises/Property w/ Children								
Violation of Teacher Code of Ethics								
Negligence w/ Harm								
Inappropriate Physical Contact with Harm								

Felony Conviction								
Falsification of Licensure Documentation								
Unprofessionalism - Inappropriate Communication (Explicit)								

Authority: T.C.A. §§ 4-5-320, 49-1-302, 49-1-607, 49-5-106, 49-5-108, 49-5-413, and 49-5-417.
Administrative History: Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Amendment filed May 29, 2015; effective August 27, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal and new rules filed October 27, 2015; effective January 25, 2016. Emergency rule filed September 5, 2017; effective through March 4, 2018. Amendments filed December 5, 2017; effective March 5, 2018. Amendments filed February 3, 2020; effective May 3, 2020.

0520-02-03-.12 PERMITS.

- (1) In accordance with T.C.A. § 49-5-106, the commissioner may grant a teaching permit to an individual who does not hold an active Tennessee educator license under the following conditions:
 - (a) The director of schools and the chair of the local board of education certify to the commissioner that the LEA is unable to secure a qualified teacher with a valid license for the position in which a vacancy exists;
 - (b) The LEA or charter school provides evidence of a targeted recruitment strategy for the vacant position;
 - (c) The director of schools or charter school leader recommends the individual for a teaching permit;
 - (d) The recommended individual holds a minimum of a bachelor's degree;
 - (e) If an individual indicates an affirmative answer on the personal affirmation section of the application for a permit, the individual shall show why the permit should be issued despite the individual's affirmative answers. The permit application of any individual who indicates an affirmative answer on the personal affirmation section of the application shall be sent to the State Board for review in accordance with State Board Rule 0520-02-03-.09(6) for a determination of whether the permit may be issued by the commissioner; and
 - (f) If an individual teaching on a permit issued by the commissioner is reported by a Director as described in State Board Rule 0520-02-03-.09(2) and the misconduct, if substantiated, would warrant disciplinary action under State Board Rule 0520-02-03-.09, the State Board may direct the commissioner to not issue a new permit to the individual upon expiration of the individual's current permit pursuant to T.C.A. § 49-5-106(a) and State Board Rule 0520-02-03-.09(6).
- (2) In reviewing a permit request for approval, the commissioner shall consider:

- (a) The educator's previous work experience;
 - (b) The educator's postsecondary coursework and degrees held; and
 - (c) The educator's relevant experience in the subject area where the educator is seeking to teach.
- (3) Individuals with a teaching permit shall not teach a course in which a state-level end of course examination is required.
 - (4) Each permit issued by the commissioner shall be valid only until June 30 following the date of issuance.
 - (5) Individuals seeking renewal of a permit shall be treated the same as individuals seeking the issuance of a new permit due to the statutory requirement in T.C.A. § 49-5-106(a)(1) that a permit shall expire on June 30 following the date of issuance. The individual shall indicate on the permit application if the individual is seeking renewal of an expired permit. The permit may be renewed two (2) times.
 - (6) An LEA may employ a teacher holding a permit, but not holding a valid license, only for such period of time for which the LEA is unable to secure a qualified teacher with a valid license for the vacant position.
 - (7) If an individual has had a permit application denied by the commissioner, the individual must indicate such on any future application for an educator license or permit in Tennessee.

Authority: T.C.A. § 49-1-302, T.C.A. § 49-5-106, T.C.A. § 49-5-108, T.C.A. § 49-5-403.
Administrative History: Original rule filed November 16, 1989; effective February 29, 1990. Repealed and new rule filed March 16, 1992; effective June 29, 1992. Amendment filed May 28, 1999; effective September 28, 1999. Repeal and new rules filed December 18, 2014; effective March 18, 2015. A stay of the rules was filed January 28, 2015; new effective date June 1, 2015. Emergency rules filed August 27, 2015; effective through February 23, 2016. Repeal filed October 27, 2015; effective January 25, 2016.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 7/8/20

Signature: Angela C. Sanders

Name of Officer: Angela C. Sanders

Title of Officer: General Counsel

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Filed with the Department of State on: _____

Tre Hargett
Secretary of State