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The Honorable Bill Lee
Governor of Tennessee
600 Charlotte Avenue
Nashville, TN 37243

Dear Governor Lee:

These are perilous times, due in part that massive damage caused by weather-related disasters and an unforeseen public health crisis created by the evolving Coronavirus Disease 2019 (COVID-19) outbreak that has necessitated a state of emergency in Tennessee. The World Health Organization has now labeled the coronavirus outbreak a pandemic. Therefore, we request that you direct the Commissioner of Education, Penny Lee Schwinn, to request a one-year waiver from the United States Department of Education under Section 8401 of the Elementary and Secondary Education Act (20 U.S.C. § 7861) so that the participation rate or absenteeism metric would not be factored into any school's Academic Achievement indicators.

Tennessee has unique circumstances as a result of devastating tornadoes and COVID-19. We cannot be certain that our state will not require additional school closings during the entire testing window. However, Tennessee can't administer assessments that are reliable and valid during this academic year. The impact caused by weather and COVID-19 will undeniably affect our accountability system due to school closures or student absences. Districts and educators should also be held harmless.

Tennessee should postpone pending annual assessments in reading/language arts, mathematics, and science to all students. TCA 49-1-201 states that in the absence of the state board, the commissioner shall have, if necessary, the emergency rulemaking

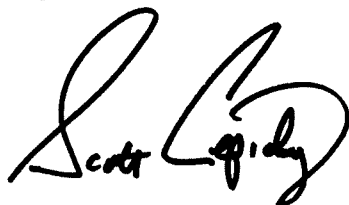
authority provided for in the Uniform Administrative Procedures Act, compiled in title 4, chapter 5; The Commissioner authority cannot supersede the powers of the state board in policy matters and may be used only in the performance of the commissioner' s administrative responsibilities. The Commissioner of Education, likely already has authority under Tennessee Code Annotated to postpone testing statewide under § 4-5-208 (2014). If this is not accurate, the Tennessee General Assembly can take the necessary steps legislatively to address testing and accountability.

We must recognize that our districts could face critical challenges meeting certain Elementary and Secondary Education Act fiscal requirements, such as maintenance of effort; the requirement to obligate funds in the current Federal fiscal year for providing equitable services to eligible private school students, teachers, and families; and the limitation on carrying over no more than 15 percent of Title I, Part A funds. Should any of these issues or other topics need to be addressed by our local education agencies or charter schools, the Tennessee Department of Education should facilitate the necessary conversations with the United States Department of Education, and provide essential guidance?

We must continue to work together to ensure the safety and security of our citizens. The health and safety of our students, staff, and their families is our top priority in education. With the pressure our schools are already facing navigating the COVID-19 outbreak, the last thing our schools need is the undue burden of preparing and administering statewide assessments. We ask for you to direct the Commissioner of Education to suspend testing for this year.

Our containment and mitigation efforts have likely addressed wider community spread, and undoubtedly already saved lives here in Tennessee. To slow down the rate of this epidemic, we have already taken critical steps in Tennessee. We know we have more work to do. We appreciate your leadership on this matter.

Regards,

A handwritten signature in black ink that reads "Scott Cepicky". The signature is stylized with large, sweeping loops.

Scott Cepicky
State Representative

SC: jw