

STREAMLINED

REFORMING TENNESSEE'S PRIVATE SCHOOL REGULATORY ENVIRONMENT





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POLICY STUDY

STREAMLINED

REFORMING TENNESSEE'S PRIVATE SCHOOL REGULATORY ENVIRONMENT

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EXECUTIVE SUMMARY

Early in the 2025 legislative session, the Tennessee General Assembly finally acceded to the request of Governor Bill Lee and passed a universal education savings account program that would provide all Tennessee parents with state funding to choose the educational model that best meets their learning needs of their children.

The program established, the Education Freedom Scholarship Program (EFS), is a massive and important step forward in improving Tennessee's educational landscape. However, to be successful in the long term, the program will require a robust statewide private school sector. Our paper describes the current regulatory burdens on private schools in Tennessee and recommends policy changes that can lead to new private school options for Tennessee students.

Because Tennessee's current private school regulations are so complex and burdensome, many education entrepreneurs are not interested in opening private schools in the state. The legal team of one of our allies has worked with several leaders who initially wanted to start private schools in Tennessee but ultimately decided against it because of the difficulty of navigating Tennessee's private school regulatory environment. In the course of conducting research for this paper, done before the passage of EFS, we spoke with several private school leaders from across Tennessee who said that they had declined to participate in Tennessee's current education savings account program, the cleverly-named Education Savings Account Program (ESA), due to regulatory concerns and would

continue to do so even if a universal education savings account program like EFS was created.

Given these constraints on private school growth in Tennessee and the enactment of EFS, we recommend the following changes to Tennessee's private school regulations:

- I. **Consolidate Tennessee's private school landscape into three types of schools – church schools, non-church schools, and EFS, ESA, and individualized education account (IEA) schools – and reduce the regulatory requirements for all schools** to streamline school approval processes and reduce schools' compliance burdens.
- II. **Remove the testing requirement for schools participating in the EFS, ESA and IEA programs** to encourage existing private schools to consider participating in school choice programs.
- III. **Extend the approval term for Tennessee private schools to 10 years** to reduce school costs and administrative burdens.
- IV. **Rescind the May 2023 Board of Education rule requiring a commercial driver's license (CDL) for drivers transporting students to school activities in school-provided vehicles** to reduce the onerous financial burden on private schools and increase student safety.

- V. **Reconsider some of the safety guidelines passed in the wake of the Covenant School shooting** to reduce stress and anxiety among parents, students, and school leaders.

If implemented, these regulatory changes could decrease the regulatory and administrative burdens on existing private schools while increasing the likelihood that new, innovative private schools will begin operating in Tennessee.

While the above list certainly entails a significant number of regulatory changes, none of those changes would require legislative approval, as they are outlined in the Tennessee State Board of Education rules rather than in the Tennessee

Code. Therefore, both Gov. Lee and Education Commissioner Lizzette Gonzales Reynolds can immediately take the lead on initiating these changes in partnership with the State Board of Education.

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THE COSTS OF OVERREGULATION

We talked with 32 leaders from K–12 private schools throughout Tennessee, including in Nashville, Memphis, Knoxville, Chattanooga, and points in between, to find out which state regulations are considered the most consequential, onerous, and costly by school CFOs and principals. We also investigated whether any of these regulations had an effect on staffing decisions or school autonomy. We spoke with these administrators on the condition of anonymity. Some were employed by schools that are considered the most elite private institutions in the state, while others represented schools that are not.

School Autonomy and Qualms About School Choice Programs

Regarding school autonomy, most of the school administrators did not consider Tennessee’s current regulatory environment to be an issue. However, we learned that multiple schools in Chattanooga, Memphis, and Nashville had declined to participate in ESA due to autonomy concerns. The representatives from these schools explained that their schools would continue to decline even if a universal program available to all Tennessee children was established, which is now the case with the enactment of the EFS program.

A major problem with the ESA program is the provision that participating schools must have their

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students complete the Tennessee Comprehensive Assessment Program (TCAP), the state’s testing program, which has been in place since 1988. Many private schools in the state do not administer this test to their students and have no desire to do so in the future. In this sense, the provision ensures that these schools will not participate in that program regardless of how enticing it may otherwise be. Most of the administrators said that they have no ideological opposition to the ESA program in theory and would like to participate, but they will not do so unless they are certain that they will not need to surrender an inordinate amount of autonomy to the Bureau of Education.

However, the text of HB 6004, which established the EFS program, allows private schools to substitute the TCAP with “a nationally standardized achievement test that is aligned to the respective private school’s instructional plan, as determined by

rules promulgated by the state board of education.” The rules to be promulgated have yet to be announced, and it is unknown whether these TCAP alternatives will be more palatable to private school administrators who have autonomy concerns.¹

Problems with the CDL License Requirement

One regulation that was universally condemned by all of the administrators we spoke to was the May 1, 2023 edict from the Tennessee State Board of Education requiring that any driver of a multifunctional school activity bus (MSFAB) used by a private school to transport students to school activities must “obtain and maintain” a Tennessee CDL.²

An MSFAB is defined in the Code of Federal Regulations (49 C.F.R. 571.3) as “a school bus whose purposes do not include transporting students to and from home or school bus stops.” For all intents and purposes, the MSFABs used by the administrators’ schools are church vans, shuttle buses, and other vehicles that seat 14 passengers or more. “School activities” are defined by the Driver Control Division of the Tennessee Department of Safety as “field trips, ball trips, band camps and other non-regular route use that is sanctioned by the board of education on either board-owned, contractor-owned or school-owned equipment.”³

This rule requires schools to either pay for staff members to complete the time-consuming process of obtaining a CDL-P (Passenger) and CDL-S (School Bus) through the state or hire existing CDL license holders, if any are available, to transport students to school activities. These costs are effectively prohibitive for many schools.

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Many of the school administrators reported that, because of this rule, their schools had essentially stopped providing students with transportation to school activities. Instead, parents and students had to arrange their own transportation via carpooling. The administrators noted that this decision effectively shifted the costs of transportation from the school to the parents and students, although some schools reimbursed drivers for their mileage expenses.

In addition, many administrators noted that transporting students to school activities via carpooling is far more dangerous than the previous arrangement of having students transported to activities in a van by a driver without a CDL. When relying on the carpooling of students and parents, there are safety concerns regarding, for example, the condition of their cars, their driving records, and the probability of accidents occurring when using multiple automobiles instead of one.

One school CFO reported that their school was sending staff members through the state CDL licensing process, which takes around 200 hours to complete, but only one employee had completed the process so far.⁴ Another CFO said that their school had canceled a very popular, successful, and long-running off-campus internship program because of a lack of available drivers.

1 H.B. 6004, 114th General Assembly, 2025 Regular Session (Tennessee 2025). <https://www.capitol.tn.gov/Bills/114/Bill/HB604.pdf>

2 “Student Transportation Vehicles and Licensure Requirements for Non-public Schools,” Tennessee Board of Education, May 1, 2023. https://www.tn.gov/content/dam/tn/education/nonpublic/non_pub/Non-public_Transportation_Memo.pdf

3 Tennessee Department of Safety Rule 1340-03-03-.07(d)(1), accessed December 12, 2023. <https://publications.tnsosfiles.com/rules/1340/1340-03/1340-03-03.20161025.pdf>

4 “Commercial Drivers License,” Tennessee Department of Safety and Homeland Security, accessed December 13, 2023. <https://>

Notably, the CDL rule has a heavier impact on rural schools than on urban and suburban ones, as students have to travel longer distances to school activities in the more sparsely populated areas of the state.

The Burden of New Safety Requirements

Another important area highlighted by many school administrators, though not all, was the impact of HB 0322, a school safety bill signed into law by Gov. Bill Lee on May 10, 2023. The bill was introduced in the wake of a school shooting at The Covenant School, a private Presbyterian school in Nashville, in which a mass shooter killed three 9-year-old students and three faculty members on March 23, 2023.

The bill states that private schools must adopt “a building-level school safety plan regarding crisis intervention, emergency response, and emergency management” to be reviewed annually.⁵ This safety plan must be presented by July 1 of every calendar year to “each local law enforcement agency with jurisdiction, as well as any law enforcement agency or other emergency response organization participating in an armed intruder drill.”⁶

Furthermore, each private school must conduct at least one “armed intruder drill,” “incident command drill,” and “emergency safety bus drill” per year. The armed intruder drill must be conducted “in coordination with the appropriate local law enforcement agency,” while the incident command drill must be conducted “without students present” to “prepare school staff and law enforcement agencies on what to expect in the event of an emergency situation in the school.”⁷ The

emergency safety bus drill must also be conducted without students present and “prepare school staff and law enforcement agencies on what to expect in the event of an emergency situation on a school bus.”⁸ Documentation of the results of these drills must be “maintained by the school for a minimum of five... years” and “made available to a local law enforcement agency with jurisdiction, the department of education, or the department of safety upon request.”⁹

All private schools must also “ensure that all exterior doors leading into a school building are locked at all times and access to school buildings is limited

“All private schools must also ‘ensure that all exterior doors leading into a school building are locked at all times and access to school buildings is limited to the school’s primary entrance, unless otherwise determined by school policy, to prevent unauthorized entry into the school building ...’”

to the school’s primary entrance, unless otherwise determined by school policy, to prevent unauthorized entry into the school building while students are present during the school day as well as when students are present outside of regular school hours for school-related purposes or activities.”¹⁰

However, schools “may unlock the door to the school building’s primary entrance during a school-

www.tn.gov/safety/driver-services/commercial-driver-license.html

5 “HB 0322,” Tennessee General Assembly, accessed December 13, 2023. <https://wapp.capitol.tn.gov/apps/BillInfo/Default.aspx?BillNumber=HB0322>

6 *Ibid.*

7 *Ibid.*

8 *Ibid.*

9 *Ibid.*

10 *Ibid.*

related event or activity if the door is continuously monitored by a school or LEA employee who is physically present at the door to ensure access is limited to only authorized persons and to alert others if an unauthorized person enters, or attempts to enter, the school building.”¹¹

Finally, armed and unarmed security guards at private schools must complete the same training regimen as their public school counterparts. Armed security guards must also complete active shooter training.

Many school administrators noted that the new “locked door” rule requires schools to pay staff members to welcome parents and spectators to their facilities at unlocked doors during sporting events and assemblies outside of school hours. A parent can no longer walk nonchalantly in to a school gymnasium to attend their daughter’s basketball game or a school auditorium to see their son play Nathan Detroit in the school production of *Guys and Dolls*.

However, the most concerning issue with HB 0322 was the provision that any school constructed or remodeled after July 2023 must “have installed a clear, bullet-resistant or entry-resistant film on the glass panel of each exterior entry or basement level window and door to prevent individuals from entering the school building without authorization by breaking the glass in an exterior entry or basement level window or door.”¹² Many of the school administrators reported that this mandate could add hundreds of thousands of dollars to building costs. One administrator explained that the rule was causing a one-year delay in the construction of a new campus building that the school had counted on being open in a timely manner.

It is fair to note that HB 0322 provides Tennessee private schools with \$14 billion in funding to implement the new security measures. However, this amount is not a dollar-for-dollar equivalent of what the schools will pay for these upgrades. One school CFO stated that his school was spending \$250,000 on new security measures to comply with HB 0322 but would only receive a \$100,000 reimbursement from the state.

Compliance Costs

Here, it is relevant to consider the degree to which the existing regulatory code hampers private schools’ operational budgets through compliance costs. It was our hope that the answers given by school administrators would allow us to establish a figure that is concrete, if completely unscientific, for the regulatory cost of year-to-year operations for the state’s existing schools. Unfortunately, many of the administrators could not even begin to guess what the figure would be or did not feel comfortable suggesting one.

It must be noted that the answers given by the administrators varied from school to school. For example, many of the school leaders we spoke to did not feel overburdened by the state of Tennessee. One administrator explained that the regulatory cost was so small it “didn’t even warrant mentioning.” However, others referred to costs in the four-figure or small five-figure range. One administrator at an elite college preparatory school in Nashville estimated that the annual cost of compliance for their school would be around \$100,000.

¹¹ *Ibid.*

¹² *Ibid.*

RECOMMENDATIONS TO IMPROVE TENNESSEE'S PRIVATE SCHOOL REGULATORY ENVIRONMENT

Based on our regulatory analysis and our conversations with school leaders, we recommend consolidating Tennessee's private school landscape into the three types of schools detailed below to streamline school approval processes and reduce the compliance burdens for all schools.

1) Non-church schools

This group would include all schools that currently belong to the following groups: Category I, Category I-SP, Category II, Category III, and Category IV. Altogether, these schools comprise about 70 percent of the private schools in Tennessee.

Area of Regulation	Requirements for Non-Church Schools
Attendance	<ul style="list-style-type: none"> • Report student names, ages, and addresses to the public school district in which each student resides • Have at least 10 full-time students enrolled annually
Facilities, Health, and Safety	<ul style="list-style-type: none"> • Comply with all local and state laws, rules, and regulations regarding new buildings and building alterations • Comply with all local and state laws, rules, and regulations regarding health and safety • Conduct at least one fire safety inspection annually • Construct and modify school structures in compliance with state and federal building accessibility requirements (including provisions in the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) • Conduct criminal history record checks for all adults proximate to children
Curriculum	<ul style="list-style-type: none"> • Annually administer nationally standardized achievement tests in English language arts (ELA) and math to all 3rd and 11th grade students
Administrative Rules	<ul style="list-style-type: none"> • Comply with state and federal laws prohibiting discrimination on the basis of disability (including the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) • Maintain complete and accurate permanent records of student attendance, discipline, work completed at the school, promotion, and retention • Provide parents and guardians with reports on student needs and academic progress

To avoid the numerous regulations currently imposed on Category I, II, and III schools, the requirements for non-church schools should be significantly reduced to be more in line with the regulatory requirements for Category IV schools. The table below provides examples of possible regulations for non-church schools.

Area of Regulation	Requirements for Accrediting Agencies
Scope and Organization	<ul style="list-style-type: none"> • Have a clearly written statement of objectives • Delineate the school accreditation process
School Oversight	<ul style="list-style-type: none"> • Maintain written descriptions of the requirements for school accreditation • Advise schools to address deficiencies in meeting accreditation standards • Notify TDOE within 10 business days of adding or removing an accredited school from the list • Require schools to report on deficiencies that could affect accreditation • Have procedures for revoking accreditation • Publish minimum standards for approved schools

This new non-church category would include both schools that are approved directly by TDOE and schools that are approved through agency accreditation. We recommend the following regulatory requirements for accrediting agencies.

2) Church schools

This group includes all schools in Category IV. Because Category IV regulations are already relatively light compared to those applied to schools in the other categories, it is fair to keep those regulations the same apart from the requirement for the length of the school year. All schools are accountable to parents and families, and their performance should be judged based on parental satisfaction rather than the number of days that the school is open.

3) EFS, ESA, and IEA Schools

Compliance requirements should be uniform for all schools participating in the EFS, ESA, and IEA programs. The uniformity of regulations for all participating schools would ease the burden of participation on school leaders and reduce the burden of implementation for TDOE.

That said, because stakeholders want additional levels of accountability and reporting for schools participating in the three programs, we recommend the following regulations for schools in this category.

Area of Regulation	Requirements for ESA and IEA Schools
Facilities, Health, and Safety	<ul style="list-style-type: none"> • Comply with all local and state laws, rules, and regulations regarding health and safety • Conduct criminal background checks for all employees
Curriculum and Graduation	<ul style="list-style-type: none"> • Annually provide each IEA account holder with a written explanation of the student’s progress • Annually administer either the nationally norm-referenced test(s) identified by TDOE or the TCAP test(s) to any student in grades 3 through 8 if requested by the account holder • Annually submit the graduation and completion rates of ESA or IEA students to TDOE
Administrative Rules	<ul style="list-style-type: none"> • Do not discriminate against students or applicants on the basis of race, color, or national origin • Do not employ any person who is not permitted by state law to work in a non-public school and/or who might reasonably pose a threat to the safety of students • Allow TDOE to conduct site visits
Finance	<ul style="list-style-type: none"> • Provide account holders with detailed receipts for all qualifying expenses paid to the participating school using IEA funds • Be able to accept the IEA debit card as payment for approvable charges • Do not hold IEA cards and run them on-site without the account holder present or copy IEA card information for use at a later date • Do not accept public education funds for parentally placed private school students enrolled in the IEA program • Provide TDOE with a financial audit of the school conducted by a certified public accountant if requested by TDOE • Refund the tuition and fees on a prorated basis for any IEA student who withdraws from the school and transfers to another school or returns to the school district based on the number of days the student was enrolled in the school and following the procedures set by TDOE • Send all educational records of any participating IEA student who withdraws from the school to the school district or other school identified by the account holder

The chart below shows how Tennessee private school regulations will be applied if TDOE consolidates the school types and reduces regulations as we suggest.

Area Regulated	Church Schools	Non-Church Schools	EFS, ESA, and IEA Schools
Accreditation	X	Some	Some
Assessments		X	X
Curriculum Requirements		X	
Health/Safety	X	X	X
Reporting	X	X	X
School Year Length			
TDOE Approval			X
Teacher Licensure/Evaluation			
Textbooks			

As reflected in the chart above, we recommend removing the following areas of regulation for all Tennessee private schools:

- Teacher Licensure and Evaluation** - School leaders should have the freedom to hire any teacher who meets the unique needs of their students. Given that there is little correlation between teacher licensure and teacher quality, school leaders must be able to evaluate a teacher's impact based on student data rather than arbitrary credentials or degrees.
- School Year Length** - Research has continually shown that the quality of a

child's schooling has a much greater impact on their learning than the amount of time they spend in school. Thus, school leaders should be empowered to choose a school schedule that best meets the needs of their students and families. For some schools, this might translate to significantly more days of learning than TDOE requires; for others, fewer days may be necessary.

- Textbooks** - As the experts on student learning and their respective student populations, teachers and school leaders should be able to choose the textbooks and learning materials that best meet their students' learning needs.

Additionally, based on our conversations with school leaders, we recommend that Tennessee consider the following actions:

- **Rescind the May 2023 ruling by BOE requiring a CDL license to transport students to school activities in a school-provided vehicle.** As stated, this requirement was condemned by every single private school administrator we communicated with while assembling this report. Eliminating it would remove an excessive financial burden on private schools. Furthermore, based on the number of schools that are now foregoing transportation to school activities and instead relying on parents and students to arrange transportation themselves, removing the CDL requirement could increase the safety of students while traveling to school events.
- **Reconsider some of the safety guidelines passed in the wake of The Covenant School shooting.** One concrete step that could be taken is to remove the provision requiring an annual armed intruder drill at private schools. Research has shown that these drills can lead to

increased levels of anxiety, stress, and depression among schoolchildren.¹³ At minimum, parents and students should be forewarned of the day or days on which these drills will be executed.

- **Remove testing requirements for schools participating in the EFS, ESA, and IEA programs.** These testing provisions currently and will continue to cause many private schools to avoid participating in school choice programs. A possible alternative to the mandatory testing program could be a stipulation that participating schools conduct an annual (or quarterly) report on the academic progress of participating students to their parents.

Finally, once a school is approved by TDOE, its approval should remain valid for a minimum of five years, after which the school can apply for renewal. This measure would bring the approval timeframe closer to the 10-year approval term for Tennessee charter schools. Extending the validity period for school approval would reduce education costs and administrative burdens.

¹³ Everytown for Gun Safety, *The Impact of Active Shooter Drills in Schools*, February 20, 2023. <https://everytownresearch.org/report/the-impact-of-active-shooter-drills-in-schools/>

OVERVIEW OF TENNESSEE'S PRIVATE SCHOOLS

In 2024, approximately 600 private schools educated more than 100,000 Tennessee students—about 10 percent of the state's total student population. According to the National Center for Education Statistics, the population of private school students in the state has been relatively consistent for the past 20 years.¹⁴

Tennessee currently has five types of private schools based on the regulatory requirements applying to each school:

- Category I Schools
- Category II Schools
- Category III Schools
- Category IV Schools
- Category V Schools

Additionally, there are two types of schools that fall into one of the categories *and* have additional compliance requirements: schools participating in the IEA program and schools participating in the ESA program.

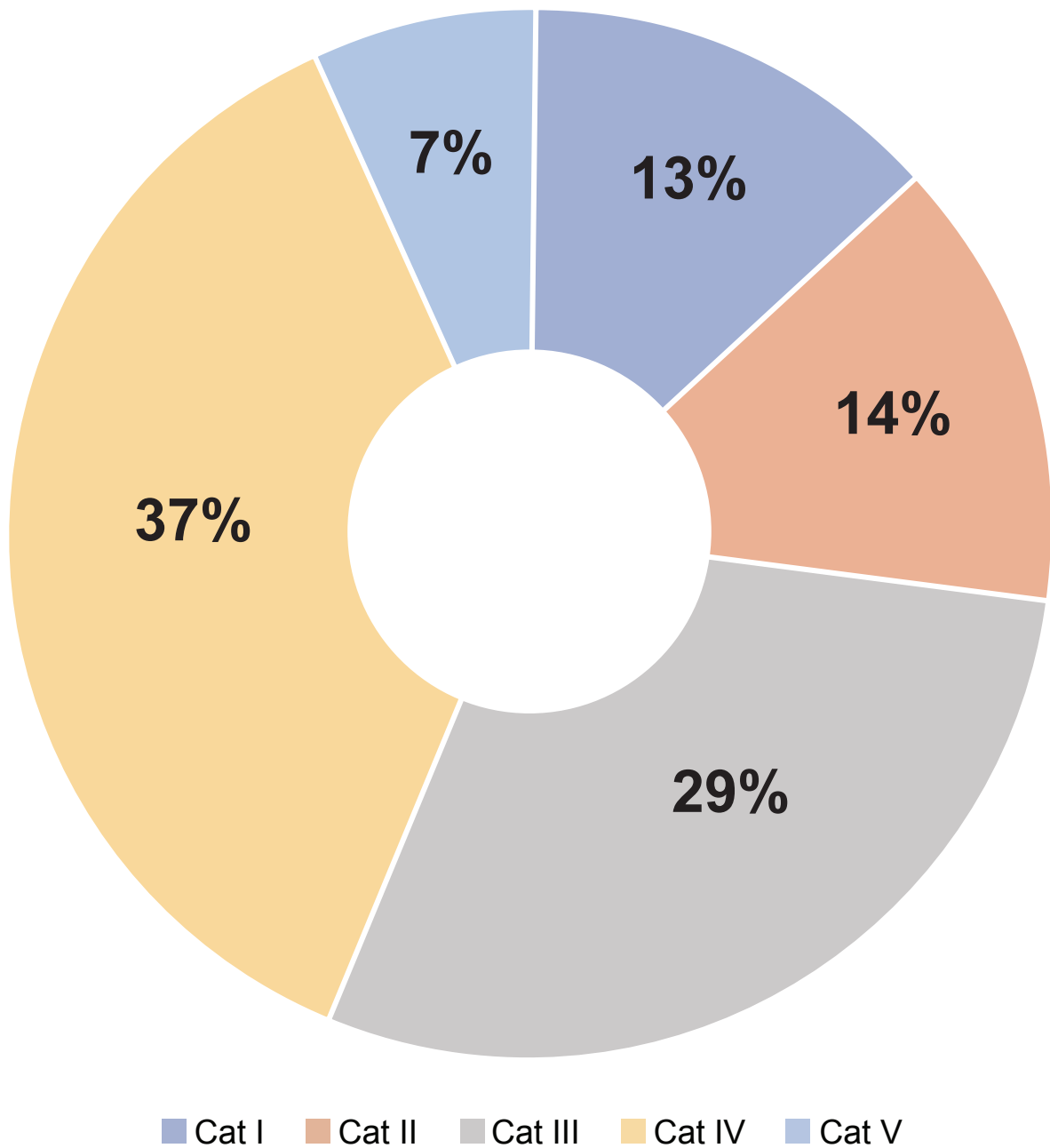
The chart below indicates the types of regulations that apply to each category of private schools.

Area Regulated	Cat I	Cat II	Cat III	Cat IV	Cat V	IEA	ESA	EFS
Accreditation		X	X	X			X	X
Assessments	X	X			X	X	X	X
Curriculum Requirements	X	X					X	X
Health/Safety	X	X	X	X	X	X	X	X
Reporting	X	X	X	X	X	X	X	X
School Year Length	X	X		X	X		X	X
TDOE Approval	X					X	X	X
Teacher Licensure/Evaluation	X	X					X	X
Textbooks	X						X	X

¹⁴ National Center for Education Statistics, "Private School Universe Survey," *Condition of Education 2024*, May 30, 2024, <https://nces.ed.gov/surveys/pss/>

The graph below visualizes the share of the 632 private schools operating in Tennessee in each category.

Percentage of Tennessee Private Schools by Category



OVERVIEW OF TENNESSEE'S CURRENT PRIVATE SCHOOL REGULATIONS

A) Category I and I-SP Schools

Category I schools are approved by TDOE. They include “special purpose” schools that provide education to pre-kindergarten students and students who are receiving short-term medical or transient care. About 14 percent of Tennessee’s private schools are Category I schools (6 percent Category I, 8 percent Category I-SP).

Schools seeking approval as Category I schools submit their applications to TDOE. The criteria for approval fall under the areas of attendance, health and safety, curriculum and graduation, teacher licensure and evaluation, and regulatory compliance.

As the only type of private school that is directly approved by TDOE, Category I schools have more regulations to comply with than schools in any other category. The table below summarizes the requirements for a Category I school to be approved by TDOE.

Category I-SP schools must comply with all of the regulations discussed above as well as several other regulations in areas of Tennessee Code related to students who are incarcerated (T.C.A. § 49-6-3023), students admitted to residential mental health treatment facilities (T.C.A. § 49-3-370), and students admitted to court-ordered day treatment facilities (T.C.A. § 49-3-308).

Area of Regulation	Requirements for Category I Schools
Attendance	<ul style="list-style-type: none"> • Report student names, ages, and addresses to the public school district in which each student resides • Ensure that students entering kindergarten are five-years-old • Have at least 10 full-time students enrolled annually
Facilities, Health, and Safety	<ul style="list-style-type: none"> • Comply with all local and state laws, rules, and regulations regarding new buildings and building alterations • Comply with all local and state laws, rules, and regulations regarding health and safety • Conduct at least one fire safety inspection annually • Construct and modify school structures in compliance with state and federal building accessibility requirements (including provisions in the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) • Comply with Department of Health rules • Conduct criminal history record checks for all adults proximate to children

<p>Curriculum and Graduation</p>	<ul style="list-style-type: none"> • Include ELA, math, social studies, and science in the curriculum • Use instructional materials that adequately cover all subjects in the instructional program • Annually administer nationally standardized achievement tests in ELA and math to all 3rd and 11th grade students • For high schools, adopt a graduation requirement policy that obligates students to earn at least the minimum number of credits required by the State Board
<p>Teacher Licensure and Evaluation</p>	<ul style="list-style-type: none"> • Ensure that all teachers and principals have an active Tennessee educator license • Develop procedures for annual evaluation of all teachers and principals • Provide a sufficient number of “appropriately qualified” administrators, supervisors, and other personnel
<p>Administrative Rules</p>	<ul style="list-style-type: none"> • Meet the minimum number of instructional days (180) and minimum number of hours per day (6.5) required of public schools • Comply with state and federal laws prohibiting discrimination on the basis of disability (including the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) • Develop and implement policies for promotion and retention • Ensure that class sizes do not exceed the class size maximums for public schools set forth in state law • Maintain complete and accurate permanent records of student attendance, discipline, work completed at the school, promotion, and retention • Provide parents and guardians with reports on student needs and academic progress • For pre-kindergarten programs, satisfy State Board standards for infant/toddler, preschool, and school-age extended care programs

B) Category II Schools

Category II schools are approved by a private school accrediting agency that has in turn been approved by the Tennessee Board of Education (State Board). Approximately 15 percent of Tennessee’s private schools are Category II schools.

Agencies must apply to the State Board for approval. The table below summarizes the requirements for the State Board to approve a Category II accrediting agency.

Because securing accreditation by a Category II agency can be a rigorous process, church-related schools often start as Category IV schools and subsequently apply to one of the Category II agencies to become accredited.

Currently, the following agencies have been

approved by the State Board:¹⁵

- Association of Christian Schools International (ACSI)
- Association of Classical & Christian Schools, Inc.
- Catholic Diocese of Nashville (CDN)
- Christian Schools International Accreditation Services
- Midsouth Association of Independent Schools
- National Lutheran School Accreditation
- Southern Union Conference of the Seventh Day Adventist Church (SDA)
- Tennessee Association of Christian Schools (TACS)
- Tennessee Association of Non-Public Academic Schools (TANAS)

An approved agency must apply to renew its approval every five years.

Area of Regulation	Requirements for Category II Accrediting Agencies
Scope and Organization	<ul style="list-style-type: none"> • Have a clearly written statement of objectives • Delineate the school accreditation process • Have at least five member schools that each have at least 10 full-time students enrolled annually • Employ at least one full-time agency head or director
School Oversight	<ul style="list-style-type: none"> • Maintain written descriptions of the requirements for school accreditation • Re-evaluate approved schools annually • Give advance publication of proposed changes to accreditation standards • Advise schools to address deficiencies in meeting accreditation standards • Notify TDOE within 10 business days of adding or removing an accredited school from the list • Require schools to report on deficiencies that could affect accreditation • Have procedures for revoking accreditation • Publish minimum standards for approved schools

¹⁵ Tennessee State Board of Education, “Category II and III Private School Accrediting Agencies,” February 10, 2023, www.tn.gov/education/families/school-options/non-public-schools/non-public-school-categories.html

<p>Attendance</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Report student names, ages, and addresses to the public school district in which each student resides ○ Ensure that students entering kindergarten are five-years-old
<p>Facilities, Health, and Safety</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Comply with all local and state laws, rules, and regulations regarding new buildings and building alterations ○ Comply with all local and state laws, rules, and regulations regarding health and safety ○ Conduct at least one fire safety inspection annually ○ Construct and modify school structures in compliance with state and federal building accessibility requirements (including provisions in the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) ○ Comply with Department of Health rules and ensure that each enrolled child is vaccinated against disease (subject to applicable exemptions) ○ Conduct criminal history record checks for all adults proximate to children
<p>Curriculum and Graduation</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Include ELA, math, social studies, and science in their curricula ○ Use instructional materials that adequately cover all subjects in the instructional program ○ Annually administer nationally standardized achievement tests in ELA and math to all 3rd and 11th grade students ○ For high schools, adopt a graduation requirement policy that obligates students to earn at least the minimum number of credits required by the State Board
<p>Teacher Licensure and Evaluation</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Ensure that all teachers and principals are appropriately licensed or credentialed, as defined by the accrediting agency ○ Develop procedures for annual evaluation of all teachers and principals ○ Provide a sufficient number of “appropriately qualified” administrators, supervisors, and other personnel
<p>Administrative Rules</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Meet the minimum number of instructional days (180) and minimum number of hours per day (6.5) required of public schools ○ Comply with state and federal laws prohibiting discrimination on the basis of disability (including the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) ○ Develop and implement policies for promotion and retention ○ Ensure that class sizes do not exceed the class size maximums for public schools set forth in state law ○ Maintain complete and accurate permanent records of student attendance, discipline, work completed at the school, promotion, and retention ○ Provide parents and guardians with reports on student needs and academic progress

C) Category III Schools

Category III schools are accredited by a regional accrediting agency recognized by the State Board. One-third (33 percent) of Tennessee's private schools are Category III schools. The Category III accrediting agency requirements, which are listed below, are very similar to the Category II accrediting agency requirements.

For established schools, the process of accreditation can take up to a year. For new schools, the process can take up to two years. During this candidacy period, these schools often start operating as Category IV schools.

The current list of regional accrediting agencies is as follows:¹⁶

- Accrediting Commission for Schools Western Association of Schools and Colleges (ACS WASC)
- Cognia (formerly AdvancED)
- Middle States Association Commissions on Elementary and Secondary Schools (MSA CESS)
- Middle States Association of Colleges and Schools (MSA)
- Middle States Commission on Elementary Schools (MSCES)
- Middle States Commission on Secondary School (MSCSS)
- National Association of Independent Schools (NAIS)
- National Council for Private School Accreditation (NCPSA)
- New England Association of Schools and Colleges (NEASC)
- Northwest Accreditation Commission (NWAC)
- Southern Association of Independent Schools (SAIS)
- Southern Association of Colleges and Schools Council on Accreditation and School Improvement (SACS CASI)
- Tennessee Association of Independent Schools (TAIS)

Area of Regulation	Requirements for Category III Accrediting Agencies
School Oversight	<ul style="list-style-type: none"> • Maintain written descriptions of the requirements for school accreditation • Re-evaluate approved schools annually • Give advance publication of proposed changes to accreditation standards • Advise schools to address deficiencies in meeting accreditation standards • Notify TDOE within 10 business days of adding or removing an accredited school from the list • Require schools to report on deficiencies that could affect accreditation • Have procedures for revoking accreditation • Publish minimum standards for approved schools
Attendance	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Report student names, ages, and addresses to the public school district in which each student resides ○ Ensure that students entering kindergarten are five-years-old

¹⁶ *Ibid.*

<p>Facilities, Health, and Safety</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Comply with all local and state laws, rules, and regulations regarding new buildings and building alterations ○ Comply with all local and state laws, rules, and regulations regarding health and safety ○ Conduct at least one fire safety inspection annually ○ Construct and modify school structures in compliance with state and federal building accessibility requirements (including provisions in the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) ○ Comply with Department of Health rules and ensure that each enrolled child is vaccinated against disease ○ Conduct criminal history record checks for all adults proximate to children
<p>Curriculum and Graduation</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Include ELA, math, social studies, and science in their curricula ○ Use instructional materials that adequately cover all subjects in the instructional program ○ Annually administer nationally standardized achievement tests in ELA and math to all 3rd and 11th grade students ○ For high schools, adopt a graduation requirement policy that obligates students to earn at least the minimum number of credits required by the State Board
<p>Teacher Licensure and Evaluation</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Ensure that all teachers and principals are appropriately licensed or credentialed, as defined by the accrediting agency ○ Develop procedures for annual evaluation of all teachers and principals ○ Provide a sufficient number of “appropriately qualified” administrators, supervisors, and other personnel
<p>Administrative Rules</p>	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Meet the minimum number of instructional days (180) and minimum number of hours per day (6.5) required of public schools ○ Comply with state and federal laws prohibiting discrimination on the basis of disability (including the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) ○ Develop and implement policies on promotion and retention ○ Ensure that class sizes do not exceed the class size maximums for public schools set forth in state law ○ Maintain complete and accurate permanent records of student attendance, discipline, work completed at the school, promotion, and retention ○ Provide parents and guardians with reports on student needs and academic progress

D) Category IV Schools

Category IV schools, or “church-related” schools, comprise nearly half (42 percent) of Tennessee’s private schools. To join Category IV, a school must be operated by a church organization that has been approved by the State Board. Because of the religious nature of Category IV schools, they are exempt from many of the regulations that apply to other categories, including those regulations regarding faculty, textbooks, and curricula.

The table below summarizes the requirements for the State Board to approve a church organization operating a Category IV school.

The following church organizations are currently approved by the State Board to operate schools:¹⁷

- Tennessee Association of Christian Schools
- Association of Christian Schools International
- Tennessee Association of Independent Schools
- Southern Association of Colleges and Schools
- Tennessee Association of Non-Public Academic Schools
- Tennessee Association of Church Related Schools
- Association of Classical and Christian School
- Tennessee Alliance of Church Related Schools
- Accelerated Christian Education, Inc.

A church-related school that is not accredited by or a member of one of the above organizations may apply for approval from the State Board to become a Category IV school.

Area of Regulation	Requirements for Category IV Church Organizations
Attendance	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Report student names, ages, and addresses to the public school district in which each student resides ○ Ensure that students entering kindergarten are five-years-old
Facilities, Health, and Safety	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Comply with all local and state laws, rules, and regulations regarding new buildings and building alterations ○ Comply with all local and state laws, rules, and regulations regarding health and safety ○ Conduct at least one fire safety inspection annually ○ Construct and modify school structures in compliance with state and federal building accessibility requirements (including provisions in the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) ○ Comply with Department of Health rules and ensure that each enrolled child is vaccinated against disease (subject to applicable exemptions) ○ Conduct criminal history record checks for all adults proximate to children
Administrative Rules	<ul style="list-style-type: none"> • Require that the accredited schools: <ul style="list-style-type: none"> ○ Meet the minimum number of instructional days (180) and minimum number of hours per day (6.5) required of public schools

¹⁷ Tennessee Code Title 49. Education § 49-50-801(a), last accessed July 16, 2024, <https://codes.findlaw.com/tn/title-49-education/tn-code-sect-49-50-801/>

E) Category V Schools

Category V schools are registered for operation with TDOE. Becoming a Category V school is a less rigorous process than becoming a Category I school, the other type of school that is directly approved by the TDOE. Thus, some schools choose to become

Category V schools while waiting to be approved as Category I schools. Approximately 8 percent of Tennessee’s private schools are Category V schools.

As shown below, Category V schools have significantly fewer requirements for compliance compared to Category I schools.

Area of Regulation	Requirements for Category V Schools
Attendance	<ul style="list-style-type: none"> • Report student names, ages, and addresses to the public school district in which each student resides • Ensure that students entering kindergarten are five-years-old • Have at least 10 full-time students enrolled each year
Facilities, Health, and Safety	<ul style="list-style-type: none"> • Comply with all local and state laws, rules, and regulations regarding new buildings and building alterations • Comply with all local and state laws, rules, and regulations regarding health and safety • Conduct at least one fire safety inspection annually • Construct and modify school structures in compliance with state and federal building accessibility requirements (including provisions in the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973) • Comply with Department of Health rules and ensure that each enrolled child is vaccinated against disease • Conduct criminal history record checks for all adults proximate to children
Curriculum	<ul style="list-style-type: none"> • Annually administer nationally standardized achievement tests in ELA and math to all 3rd and 11th grade students
Teacher Licensure	<ul style="list-style-type: none"> • Ensure that each teacher has a baccalaureate degree
Administrative Rules	<ul style="list-style-type: none"> • Meet the minimum number of instructional days (180) and minimum number of hours per day (6.5) required of public schools • Keep documentation of the curriculum offered and make copies available to TDOE for inspection

F) Schools Participating in EFS, ESA, and IEA Programs

There are three programs in Tennessee that provide resident students with public funding to attend private schools: the IEA Program for students with disabilities, which was launched in 2017; the ESA Pilot Program for low income students in specific geographic areas, which was launched in 2022; and the EFS Program, which will go into effect in July 2025, and will be fully universal by the 2026–27 school year. To enroll eligible students in these programs, private schools must apply to participate and meet the program specific compliance requirements. Because the compliance requirements for participating schools differ between the three programs, we discuss them separately below.

Individualized Education Account (IEA) Compliance Requirements

Schools from any category can apply to TDOE to participate in the IEA program. Application requirements include a surety bond payable to the state, a statement by a certified public accountant, a school calendar, and a list of all tuition and fees for the school.¹⁸ All schools approved for IEA participation must reapply annually.¹⁹

The table below summarizes the requirements for a school to participate in the IEA program.²⁰ It is important to note that (1) there are unique compliance requirements for IEA schools because they receive direct government funding, and (2) the compliance requirements listed below are *in addition to* the category-specific regulations discussed above for private schools operating in Tennessee, depending on which category the school belongs to.

Area of Regulation	Requirements for Schools Accepting IEA Students
Facilities, Health, and Safety	<ul style="list-style-type: none"> • Comply with all local and state laws, rules, and regulations regarding health and safety • Conduct criminal background checks for all employees
Curriculum and Graduation	<ul style="list-style-type: none"> • Annually provide each IEA account holder with a written explanation of the student's progress • Annually administer either the nationally norm-referenced test(s) identified by TDOE or the TCAP test(s) to any student in grades three through eight if requested by the account holder • Annually submit the graduation and completion rates of students in the IEA program to TDOE

18 Tennessee Department of Education, "How to Apply to Be a Participating School," last accessed July 16, 2024, <https://www.tn.gov/education/iea/iea-school-information/iea-school-application.html>

19 Tennessee Department of Education, *Individualized Education Account (IEA) Program: Participating Non-Public School Handbook 2024–25*, July 2024, https://www.tn.gov/content/dam/tn/education/iea/2024-25_IEA_Participating_Non-public_School_Handbook.pdf

20 *Ibid.*

<p>Administrative Rules</p>	<ul style="list-style-type: none"> • Do not discriminate against students or applicants on the basis of race, color, or national origin • Do not employ any person who is not permitted by state law to work in a non-public school and/or who might reasonably pose a threat to the safety of students • Allow TDOE to conduct site visits • Comply with the minimum kindergarten age requirement
<p>Finance</p>	<ul style="list-style-type: none"> • Provide account holders with a detailed receipt for all qualifying expenses paid to the participating school using IEA funds • Be able to accept the IEA debit card as payment for approvable charges • Do not hold IEA cards and run them on-site without the account holder present or copy IEA card information for use at a later date • Do not accept public education funds for parentally placed private school students enrolled in the IEA program • Provide TDOE with a financial audit of the school conducted by a certified public accountant if requested by TDOE • Refund tuition and fees on a prorated basis for any IEA student who withdraws from the school and transfers to another school or returns to the school district, depending on the number of days the student was enrolled in the school and following the procedures set by TDOE • Send all educational records of any participating IEA student who withdraws from the school to the school district or other school identified by the account holder

EFS and ESA Compliance Requirements

Only Category I, II, and III schools can apply to TDOE to participate in the EFS or ESA programs. Application requirements include a demonstration of financial viability and information about the school calendar, admissions policies, and tuition and fees. All schools approved for EFS or ESA participation must reapply annually.

The table below summarizes the requirements for schools to participate in the ESA program

and, presumably, the EFS program.²¹ As the table shows, EFS and ESA schools are the most heavily regulated type of private schools in the state. It is important to note that (1) there are unique compliance requirements for EFS and ESA schools because they receive direct government funding, and (2) the compliance requirements listed below are in addition to the category-specific regulations discussed above for private schools operating in Tennessee, depending on which category the school belongs to.

²¹ Tennessee Department of Education, *School Handbook: A Guide to the Tennessee Education Savings Account Program, 2024–25 School Year*, January 2024, https://www.tn.gov/content/dam/tn/education/esa/ESA_2024-25_School_Handbook.pdf.

Area of Regulation	Requirements for Schools Accepting EFS and ESA Students
Attendance	<ul style="list-style-type: none"> Send proof of enrollment to TDOE for each EFS and ESA student
Facilities, Health, and Safety	<ul style="list-style-type: none"> Conduct criminal background checks for all employees Do not employ any person who is not permitted by state law to work in a non-public school and/or who might reasonably pose a threat to the safety of students
Curriculum and Graduation	<ul style="list-style-type: none"> Annually provide each EFS and ESA account holder with a written explanation of the student's progress Ensure that participating students in grades three through 11 are administered the TCAP tests in math and ELA each year Designate a testing coordinator Provide students with an assessment report if they complete the annual TCAP assessment Annually supply TDOE with graduation and completion information for 12th grade students participating in the EFS and ESA program
Administrative Rules	<ul style="list-style-type: none"> Certify that participating students and applicants will not be discriminated against on the basis of race, color, or national origin
Finance	<ul style="list-style-type: none"> Provide account holders with a detailed receipt for all qualifying expenses paid to the participating school using EFS and ESA funds Do not charge additional tuition or fees to participating students that are not also charged to non-participating students Do not refund, rebate, or share EFS and ESA funds with a participating student or with their parent or guardian Accept reimbursement payments for tuition and fees from an account holder on the payment schedule identified by TDOE Submit an expense report to TDOE within 10 days of the withdrawal date for any EFS and ESA student who withdraws from the school



CONCLUSION

In sum, Tennessee’s complex levels of regulation for private school requirements are unnecessarily burdensome for school leaders, who should be able to focus on the demanding work of educating students rather than whether their van driver has the right type of license. Additionally, these extensive compliance requirements create additional busywork for TDOE staff and impose barriers to entry for parties who are interested in opening private schools in Tennessee.

The extent to which our recommendations for streamlining private school compliance are implemented will directly correspond to the degree to which administrative costs and burdens will be reduced for both private school and TDOE leaders. Furthermore, these recommendations will not only help to create a private school landscape

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in Tennessee that grants private schools the autonomy they need to thrive but also provide sufficient regulation for TDOE to ensure that the state’s private schools meet the health, safety, and educational needs of all students.