

Department of State
Division of Publications
 312 Rosa L. Parks Avenue, 8th Floor Snodgrass/TN Tower
 Nashville, TN 37243
 Phone: 615-741-2650
 Fax: 615-741-5133
 Email: register.information@tn.gov

For Department of State Use Only

Sequence Number: 02-15-13
 Rule ID(s): 5379
 File Date: 2/14/13
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Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to T.C.A. §§ 4-5-202, 4-5-207 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within sixty (60) days of the first day of the month subsequent to the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by twenty-five (25) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of twenty-five (25) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

Agency/Board/Commission:	Department of Intellectual and Developmental Disabilities
Division:	
Contact Person:	Steve Tepley
Address:	Frost Bldg., 161 Rosa L. Parks Blvd., Nashville, TN
Zip:	37243
Phone:	615-253-2025
Email:	Steve.tepley@tn.gov

Revision Type (check all that apply):

- Amendment
 New
 Repeal

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

Chapter Number	Chapter Title
0465-01-01	Statewide Admission Review Committee Rules
Rule Number	Rule Title
0465-01-01-.01	Purpose
0465-01-01-.02	Definitions
0465-01-01-.03	Statewide Admissions Review Committee
0465-01-01-.04	Voluntary Admissions
0465-01-01-.05	Emergency Respite Admissions
0465-01-01-.06	Short-Term Training Admissions
0465-01-01-.07	Other Provisions

(Place substance of rules and other info here. Statutory authority must be given for each rule change. For information on formatting rules go to <http://state.tn.us/sos/rules/1360/1360.htm>)

New Rules

0465-01-01

Statewide Admission Review Committee Rules

0465-01-01-.01 Purpose.

The purpose of these rules is to amend the former rules pertaining to Voluntary Admissions to Development Centers and establish new rules in light of the Department of Intellectual and Developmental Disabilities current organization, structure and resources.

0465-01-01-.02 Definitions.

- (1) "Department" means the Tennessee Department of Intellectual and Developmental Disabilities;
- (2) "Regular Voluntary Admission" means an admission authorized by the statewide admission review committee for a specified period of time;
- (3) "Statewide Admission Review Committee" means a committee established by the Tennessee Department of Intellectual and Developmental Disabilities in accordance with T.C.A. § 33-5-301 *et seq.*, appointed by the Commissioner of the Department, to review, consider and, when appropriate, approve admissions to the Department's developmental center(s);
- (4) "Short-term training admission" means an admission authorized by a written agreement between a developmental center and an applicant that the center provide services and supports for a person with intellectual or developmental disability to learn how to perform a certain function or functions for a specified period of time, not exceeding six (6) months, at the end of which the center will discharge the person with intellectual or developmental disability to the care, custody, and control of the applicant.
- (5) "Respite Admission" means an admission for up to forty-five (45) days authorized solely for the purpose of providing a respite for the person having responsibility for the care, custody, and control of a person with intellectual or developmental disability;
- (6) "Emergency respite admission" means an admission for up to forty-five (45) days authorized due to an emergency situation that results in the temporary inability of the person who has the care, custody, and control of a person with intellectual or developmental disability to provide proper care, custody, and control;
- (7) "ICF/ID" means an Intermediate Care Facility for persons with Intellectual Disabilities which is operated by the Department;
- (8) "Class member" means an individual meeting the requirements of the definition of the class in one of the following: People First vs. Clover Bottom Developmental Center or United States of America vs. State of Tennessee, et al (Arlington Developmental Center);

Authority: T.C.A. § 33-5-301, et seq.; T.C.A. § 4-3-2708; Public Acts of 2012, Chapter No. 636. Administrative History:

0465-01-01-.03 Statewide Admission Review Committee.

- (1) The purpose of the Statewide Admission Review Committee ("Committee") is to consider and approve or disapprove applications for voluntary admission to the centers operated by the Department including the Harold Jordan Center.
- (2) The Committee shall maintain at all times as its highest priority the best interest of the person with intellectual or developmental disabilities who is applying for admission. The Committee is expected to exercise its powers and duties with the goal of matching the best available services and supports to the needs of the applicant consistent with departmental resources and funding.
- (3) The voting membership of the Committee shall consist of the persons in the following Departmental positions:
 - (a) Health Services Director (who will serve as chairperson of the Board)
 - (b) Deputy Commissioner of Program Operations
 - (c) The Regional Director or designee from the referring grand region
 - (d) Director of Person Centered Practices
- (4) The Chief Officer (or appointed designee) of the center to which an admission is proposed shall serve as a non-voting member.
- (5) The voting membership of the Committee shall also include the following individuals who are Tennessee residents and not employed by the department:
 - (a) an Independent Support Coordinator (ISC) for persons with intellectual or developmental disabilities;
 - (b) a person who is employed by The ARC of Tennessee as an advocate for persons with intellectual or developmental disabilities; and
 - (c) a person who is a parent, child or sibling of a person with intellectual or developmental disabilities currently receiving services and supports from the State of Tennessee.
 - (d) Two member(s) from the community, service providers and/or other individuals interested in and supportive of the persons with disabilities.
- (6) The non-departmental members of the Committee shall serve for a term of three (3) year(s).
- (7) The Committee shall meet as often as necessary to carry out its functions. Members may participate by telephonic or video conferencing. There is no minimum advance notice requirement for a meeting; however, notice shall be given as soon as practicable.
- (8) A quorum for a meeting shall consist of a majority of voting members.
- (9) Decisions by the Board shall be subject to review by the Department in accordance with T.C.A. § 33-5-304.

Authority: T.C.A. § 33-5-301, et seq.; T.C.A. § 4-3-2708; Public Acts of 2012, Chapter No. 636. Administrative History: Original rule filed October 17, 1978; effective December 1, 1978. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984.

0465-01-01-.04 Voluntary Admissions.

- (1) To be eligible for regular voluntary admission to a center, a person must be a resident of the State of Tennessee with intellectual or developmental disabilities who applies for voluntary admission and does

not lack capacity to apply under T.C.A. § 33-3-218, or an adult whose conservator or legal representative applies for voluntary admission.

- (2) Consistent with T.C.A. § 33-1-204, there is no right or entitlement to admission to a departmental facility of a person with intellectual or developmental disabilities. If suitable accommodations are not available, there is a less restrictive alternative available, or admission is not otherwise appropriate for an individual, alternative services should be considered by the applicant. The Department will develop admission criteria and specify what types of services are offered at such facility.
- (3) Applications.
 - (a) An application or request for voluntary admission shall be submitted to the center or to the appropriate Regional Director on behalf of the applicant. A complete package of information conforming to the criteria specified by the Committee shall accompany the application. The information submitted shall include, but is not limited to, the reason for the referral and the specific needs that can be met in the facility for which admission is sought.
 - (b) Upon receipt of an application, the Department shall undertake an evaluation of the applicant to assess the person's need for services and supports. In making this assessment, the Department shall also consider the least restrictive alternatives available to provide appropriate services and supports and whether suitable accommodations are available at the Department's facilities based upon the above criteria.
 - (c) The application and the Department's findings, reports and recommendations shall be forwarded to the Director of Person Centered Practices, and if complete, it shall be reviewed by the Health Services Director, who shall determine when and whether to convene a Statewide Admission Review Committee meeting.

Authority: T.C.A. § 33-1-204; T.C.A. § 33-5-301, et seq.; T.C.A. § 4-3-2708; Public Acts of 2012, Chapter No. 636. Administrative History: Original rule filed October 17, 1978; effective December 1, 1978. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984.

0465-01-01-.05 Emergency Respite Admissions.

- (1) In an emergency when time does not permit consideration by the Statewide Admissions Review Committee, suitable accommodations are available, and all other feasible solutions have been considered, the Health Services Director and the Deputy Commissioner of Program Operations may, in their discretion, authorize an admission to a Department facility not to exceed forty-five (45) calendar days.
- (2) To initiate a request for an emergency respite admission, the Regional Director shall contact the Health Services Director and the Deputy Commissioner of Program Operations and furnish appropriate information as requested by them to support an Emergency Respite Admission.
- (3) The Statewide Admission Review Committee shall informally review a person's emergency respite admission within seven (7) days after the person is admitted. If this review is not done, then a called meeting shall be held by the Committee to review the propriety of the admission as in the case of regular voluntary admissions and shall make its decision within twenty-five (25) days after admission as to whether it should be continued, modified or terminated.
- (4) If an extension of the admission beyond forty-five (45) days is sought, the Health Services Director shall convene a meeting of the Statewide Admission Review Committee to review the admission. Provided that in no event shall any admission under this section exceed two hundred twenty-five (225) days within a twelve-month period from the first day of an emergency respite admission.

T.C.A. § 33-5-301, et seq.; T.C.A. § 4-3-2708; Public Acts of 2012, Chapter No. 636. Administrative History:

0465-01-01-06 Short-Term Training Admissions.

- (1) In an emergency when time does not permit consideration by the Statewide Admissions Review Committee, suitable accommodations are available, and all other feasible solutions have been considered, the Health Services Director and the Deputy Commissioner of Program Operations may, in their discretion, authorize an admission to a Department facility not to exceed six (6) months.
- (2) The purpose of an admission under this section is for training in specific skills needed for integration of the individual admitted into the community.

T.C.A. § 33-5-301, et seq.; T.C.A. § 4-3-2708; Public Acts of 2012, Chapter No. 636. Administrative History:

0465-01-01-.07 Other Provisions.

- (1) In all admissions except short-term training and emergency respite admissions, the Statewide Admission Review Committee shall determine in which region of the State and in which facility the person's need can best be served consistent with the resources of the Department and the availability of services.
- (2) A respite admission, emergency respite admission, short-term training admission, or combination of such admissions shall not be used to circumvent appearance before the Committee when regular voluntary admission is actually sought or appropriate.
- (3) Consistent with T.C.A. § 33-1-204, there is no right or entitlement of a person with intellectual or developmental disabilities to any category of admission, as defined or referred to in these Rules, to any departmental facility.

Authority: T.C.A. § 33-1-204; T.C.A. § 33-5-301, et seq.; T.C.A. § 4-3-2708; Public Acts of 2012, Chapter No. 636. Administrative History:

Repeals

Chapter 0940-04-01 Voluntary Admissions to Developmental Centers is repealed in its entirety.

Authority: T.C.A. § 33-5-301, et seq.; T.C.A. § 4-3-2708; Public Acts of 2012, Chapter No. 636. Administrative History: Original rule filed October 17, 1978; effective December 1, 1978. Amendment by Public Chapter 969; effective July 1, 1984. Amendment filed July 11, 1984; effective August 10, 1984.

* If a roll-call vote was necessary, the vote by the Agency on these rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)
N/A					

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the (board/commission/other authority) on 12/19/2012 (date as mm/dd/yyyy), and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of sixty (60) days of the first day of the month subsequent to the filing of the proposed rules with the Secretary of State.

Date: 12/19/12

Signature: James M. Henry

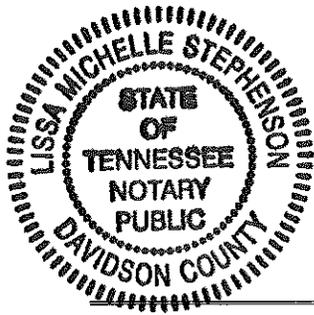
Name of Officer: Commissioner James M. Henry

Title of Officer: Commissioner of DADA

Subscribed and sworn to before me on: Dec. 19, 2012

Notary Public Signature: Lissa Michelle Stephen

My commission expires on: May 3, 2014



All proposed rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

Robert E. Cooper, Jr.

Robert E. Cooper, Jr.
Attorney General and Reporter

2-6-13

Date

Department of State Use Only

Filed with the Department of State on: 2/14/13

Effective on: 7/29/13

Tre Hargett

Tre Hargett
Secretary of State

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Regulatory Flexibility Addendum

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process as described in T.C.A. § 4-5-202(a)(3) and T.C.A. § 4-5-202(a), all agencies shall conduct a review of whether a proposed rule or rule affects small businesses.

(If applicable, insert Regulatory Flexibility Addendum here)

This rule should have no effect on small businesses since it is only intended to deal with internal processes of the Department of Intellectual and Developmental Disabilities.

Impact on Local Governments

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 "any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments." (See Public Chapter Number 1070 (<http://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

(Insert statement here)

This Rule should have no impact on local governments.

Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A) A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

This Rule repeals the previous rule concerning Voluntary Admission to the Department's Developmental Center and replaces them with updated regulations encompassing a single, Statewide Admission Committee consistent with the Department's present needs.

- (B) A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

T.C.A. 33-5-301-304

- (C) Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

The Department of Intellectual and Developmental Disabilities, which supports adoption of this rule.

- (D) Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule;

None

- (E) An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

The fiscal impact should be minimal, < ?

- (F) Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Stephen O. Tepley, DIDD Assistant General Counsel

- (G) Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

See (F) above

- (H) Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

DIDD, Office of General Counsel, 161 Rosa L. Parks Blvd., Nashville, TN 37243, steve.tepley@tn.gov

- (I) Any additional information relevant to the rule proposed for continuation that the committee requests.

None