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File Date: 8/9/16

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:	Tennessee State Board of Education
Division:	
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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:	Elizabeth Taylor
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Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	Andrew Johnson Tower		
Address 2:	Multipurpose Room 1st Floor		
City:	Nashville		
Zip:	37243		
Hearing Date :	September 23, 2016		
Hearing Time:	10:00 a.m. – 1:00 p.m.	_X__CST/CDT ___EST/EDT	

Additional Hearing Information:

Additional information will be available at www.tn.gov/sbe

Revision Type (check all that apply):
_X_ 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**
0520-01-09	SPECIAL EDUCATION PROGRAMS AND SERVICES
Rule Number	**Rule Title**
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0520-01-09-.02	Definitions
0520-01-09-.03	Consent
0520-01-09-.04	Parent
0520-01-09-.05	Free appropriate public education.
0520-01-09-.06	Child find
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0520-01-09-.09	Local education agency eligibility
0520-01-09-.10	Repealed
0520-01-09-.11	Evaluation procedures
0520-01-09-.12	Definition of IEP
0520-01-09-.13	When IEPs must be in effect
0520-01-09-.14	Review and revision of the IEP
0520-01-09-.15	Parent participation
0520-01-09-.16	Prior notice by local education agency
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0520-01-09-.21	Transfer of parental rights at age of majority
0520-01-09-.22	Amendment of records at parent's request
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RULES OF
STATE BOARD OF EDUCATION

CHAPTER 0520-01-09
SPECIAL EDUCATION PROGRAMS AND SERVICES

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0520-01-09-.01 GENERAL REGULATIONS. ADOPTION BY REFERENCE.

The State Board of Education adopts by reference the Compilation of Federal Regulations at 34 C.F.R. Parts 300 and 301 in their entirety unless otherwise provided herein as the policies and procedures for administration of special education programs and services in the state. The regulations, evaluation procedures, and eligibility criteria are available from the Division of Special Education, Tennessee Department of Education, 710 James Robertson Parkway, Nashville, TN 37243, or on the internet by accessing the state department of education's website at http://www.tn.gov/education/topic/special-education .

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 10, 1974. Amendment filed October 3, 1974; effective November 2, 1974. Amendment filed June 30, 1975; effective July 30, 1975. Amendment filed January 15, 1976; effective April 15, 1976. Amendment filed July 15, 1976; effective August 16, 1976. Amendment filed February 28, 1978; effective March 30, 1978.Amendment filed January 9, 1979; effective February 23, 1979. Amendment filed April 14, 1980; effective May 28, 1980. Amendment filed June 27, 1984; effective July 27, 1984. Amendment filed May 12, 1985; effective August 13, 1985. Amendment filed October 1, 1985; effective January 14, 1986. Amendment filed May 28, 1986; effective June 27, 1986. Amendment filed July 10, 1986; effective October 29, 1986. Repeal and new rule filed March 16, 1992; effective June 29, 1992. Repealed and new rule filed August 18, 1993; effective December 29, 1993. Amendment filed June 21,1995; effective October 27,1995. Amendment filed August 7, 1995; effective December 29, 1995. Rule 0520-01-03-.09 removed and new Chapter 0520-01-09 filed per Tennessee State Board of Education letter dated and effective April 29, 1999. Amendment filed June 19, 2001; effective September 2, 2001. Amendment filed September 6, 2007; effective January 28, 2008. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.02 DEFINITIONS.

(1) "Charter school" means a public charter school as defined at Tenn. Code Ann. § 49-13- 104.

(2) "Child with a Disability" means, children with disabilities and youth between three (3) and twenty-one (21) years of age, inclusive who have been evaluated in accordance with 34 C.F.R §§300.304 through 300.311, TCA § 49-10-102 and regulations of the state board of education and found to have intellectual disability, a hearing impairment (including deafness), a speech or language impairment, a visual impairment (including blindness), emotional disturbance, orthopedic impairment, autism, traumatic brain injury, other health impairment, specific learning disability, multiple disabilities, deaf blindness, developmental delay, functional delay or intellectually gifted and who, by reason thereof, needs special education and related services. Any child with a disability who attains twenty-two (22) years of age subsequent to

the commencement of a school year continues to be a child with a disability for the remainder of that school year.

(3) "Autism" means a developmental disability, which significantly affects verbal and nonverbal communication and social interaction, generally evident before age three (3) that adversely affects a child's educational performance. Other characteristics often associated with autism are engagement in repetitive activities and stereotyped movements, resistance to environmental change or change in daily routines, and unusual responses to sensory experience. The term does not apply if a child's educational performance is adversely affected primarily because the child has an Emotional Disturbance, as defined in this section.

Autism also includes students who have been diagnosed with an Autism Spectrum Disorder such as Autism, a Pervasive Developmental Disorder, or Asperger's Syndrome when the child's educational performance is adversely affected. Autism may exist concurrently with other areas of disability.

A child could be found to be Autistic if the child manifests the following characteristics in early childhood (as social demands increase): :

(a) Persistent deficits in social communication and social interaction across multiple contexts, as manifested by the following;

1. Deficits in social-emotional reciprocity (e.g., abnormal social approach, failure of normal back and forth conversation, reduced sharing of interests, reduced sharing of emotions/affect, lack of initiation of social interaction, and poor social imitation).

2. Deficits in nonverbal communicative behaviors used for social interaction (e.g. impairments in social use of eye contact, use and understanding of body postures, use and understanding of gestures; abnormal volume, pitch, intonation, rate, rhythm, stress, prosody, and/or volume of speech; abnormal use and understanding affect, lack of coordinated verbal and nonverbal communication, and lack of coordination nonverbal communication).

3. Deficits in developing and maintaining relationships appropriate to developmental level; ranging from difficulties adjusting behavior to social contexts, through difficulties in sharing imaginative play, to an apparent absence of interest in people.

(b) Restricted, repetitive patterns of behavior, interests, or activities as manifested by at least two of the following:

1. Stereotyped or repetitive speech, motor movements, or use of objects (e.g., echolalia, repetitive use of objects, idiosyncratic language, simple motor stereotypes)

2. Excessive adherence to routines, ritualized patterns of verbal or nonverbal behavior, or excessive resistance to change (e.g., motor rituals, insistence on same route or food, repetitive questioning, or extreme distress at small changes)
3. Highly restricted, fixated interests that are abnormal in intensity or focus (e.g., strong attachment to or preoccupation with unusual objects, excessively circumscribed or perseverative interests)
4. Hyper-or hypo-reactivity to sensory input or unusual interest in sensory aspects of environment (e.g., apparent indifference to pain/heat/cold, adverse response to sounds or textures, excessive smelling or touching of objects, fascination with lights or spinning objects).

(4) "Deaf-Blindness" means concomitant hearing and visual impairments, the combination of which causes such severe communication and other developmental and educational needs that they cannot be accommodated in special education programs by addressing any one of the impairments. A child with deaf-blindness shall be:

(a) A child who meets criteria for Deafness/Hearing Impairment and Visual Impairment;

(b) A child who is diagnosed with a degenerative condition or syndrome which will lead to Deaf-

Blindness, and whose present level of functioning is adversely affected by both hearing and vision deficits; or

(c) A child with severe multiple disabilities due to generalized central nervous system dysfunction, and who exhibits auditory and visual impairments or deficits which are not perceptual in nature.

(5) "Deafness" means a hearing impairment that is so severe that the child is impaired in processing linguistic information through hearing, with or without amplification that adversely affects a child's educational performance. The child has:

(a) An inability to communicate effectively due to Deafness; and/or

(b) An inability to perform academically on a level commensurate with the expected level because of Deafness; and/or

(c) Delayed speech and/or language development due to Deafness.

(6) "Developmental Delay" refers to children aged three (3) through nine (9) who are experiencing developmental delays, as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical (gross and/or fine), cognitive, communication, social or emotional, or adaptive development that adversely affects a child's educational performance. Other disability categories shall be used if they are more descriptive of a young child's strengths and needs.. Initial eligibility as Developmental Delay shall be determined before the child's seventh birthday.

(7) "Emotional Disturbance" means a condition exhibiting one or more of the following characteristics to a marked degree that adversely affects a child's educational performance over an extended period of time (during which time documentation of informal assessments and interventions are occurring):

(a) Inability to learn which cannot be explained by limited school experience, cultural differences, or intellectual, sensory, or health factors;

(b) Inability to build or maintain satisfactory interpersonal relationships with peers and school personnel;

(c) Inappropriate types of behavior or feelings when no major or unusual stressors are evident;

(d) General pervasive mood of unhappiness or depression;

(e) Tendency to develop physical symptoms or fears associated with personal or school problems.

The term may include other mental health diagnoses. The term does not apply when social maladjustment is the primary cause of the atypical behaviors associated with an emotional disturbance. Social maladjustment includes, but is not limited to, substance abuse related behaviors, gang-related behaviors, oppositional defiant behaviors, and/or conduct behavior problems.

(8) "Functional Delay" means a continuing significant disability in intellectual functioning and achievement that adversely affects the student's ability to progress in the general education program, but the student's adaptive behavior in the home or community is not significantly impaired and is at or near a level appropriate to the student's chronological age. Such disabilities include the following::

(a) Significantly impaired intellectual functioning which is two or more standard deviations below the mean, and difficulties in these areas cannot be the primary reason for significantly impaired scores on measures of intellectual functioning;

(b) Limited English proficiency;

(c) Cultural factors;

(d) Medical conditions that impact school performance;

(e) Environmental factors;

(f) Communication, sensory or motor disabilities;

(g) Deficient academic achievement which is at or below the fourth percentile in two or more total or composite scores in the following areas:

1. Basic reading skills;

2. Reading fluency skills;

3. Reading comprehension;

4. Mathematics calculation;

5. Mathematics problem solving;

6. Written expression; or

7. Home or school adaptive behavior scores that fall above the level required for meeting Intellectual disability eligibility standards.

(9) "Hearing Impairment" means an impairment in hearing, whether permanent or fluctuating, that adversely affects a child's educational performance but does not include Deafness.

A child shall have one or more of the following characteristics:

(a) Inability to communicate effectively due to a Hearing Impairment;

(b) Inability to perform academically on a level commensurate with the expected level because of a Hearing Impairment;

(c) Delayed speech and/or language development due to a Hearing Impairment.

(10) "Intellectually Gifted" means a child whose intellectual abilities, creativity, and potential for achievement are so outstanding that the child's needs exceed differentiated general education programing, thus requiring specifically designed instruction or support services. Children from all populations (e.g., all cultural, racial, and ethnic groups, English Learners, all economic strata, twice-exceptional, etc.) can be found to possess these abilities. Children identified as intellectually gifted are exempted from the discipline procedures at 34 C.F.R. §300.530-537. Children with a dual diagnosis that includes intellectually gifted must be considered as children with a disability and may not be exempted from the discipline procedures at 34 C.F.R. §300.530-537.

(11) "Intellectual disability" is characterized by significantly impaired intellectual functioning, existing concurrently with deficits in adaptive behavior and manifested during the developmental period that adversely affects a child's educational performance.

(12) "Multiple Disabilities" means concomitant impairments (such as Intellectual disability- Deafness, Intellectual disability-Orthopedic Impairment), the combination of which causes such severe educational needs that they cannot be accommodated by addressing only one of the impairments. The term does not include Deaf-Blindness.

(13) "Orthopedic Impairment" means a severe orthopedic impairment that adversely affects a child's educational performance. The term includes, but is not limited to, impairments caused by congenital anomaly (e.g. club foot, absence of some member), impairments caused by disease

(e.g., poliomyelitis, bone tuberculosis), and impairments from other causes (e.g. cerebral palsy, amputations, and fractures or burns that cause contractures).

(14) "Other Health Impairment" means having limited strength, vitality or alertness, including a heightened alertness to environmental stimuli, that results in limited alertness with respect to the educational environment, that is due to chronic or acute health problems such as asthma, Attention Deficit Hyperactivity Disorder, diabetes, epilepsy, a heart condition, hemophilia, lead poisoning, leukemia, nephritis, rheumatic fever, sickle cell anemia, and Tourette's Syndrome that adversely affects a child's educational performance.

A child is "Other Health Impaired" who has chronic or acute health problems that require specially designed instruction due to:

(a) Impaired organizational or work skills;

(b) Inability to manage or complete tasks;

(c) Excessive health related absenteeism; or

(d) Medications that affect cognitive functioning.

(15) "Specific Learning Disability" means a disorder in one or more of the basic psychological processes involved in understanding or in using language, spoken or written, which may manifest itself in the imperfect ability to listen, think, speak, read, write, spell, or do mathematical calculations, and that adversely affect a child's educational performance. Such term includes conditions such as visual processing (perceptual) disabilities, brain injury that is not caused by an external physical force, dyslexia, and developmental aphasia. Specific Learning Disability does not include a learning problem that is primarily the result of Visual Impairment, Hearing Impairment, Orthopedic Impairment, Intellectual disability, Emotional Disturbance, limited English proficiency, or environmental or cultural disadvantage.

(16) "Speech or Language Impairment" means a communication disorder, such as stuttering, impaired articulation, a language impairment, or voice impairment that adversely affects a child's educational performance.

Speech or Language Impairment includes demonstration of impairments in the following areas of language, articulation, voice, or fluency.

(a) Language Impairment – A significant deficiency in comprehension and/or use of spoken language that may also impair written and/or other symbol systems and is negatively impacting the child's ability to participate in the classroom environment. The impairment may involve any or a combination of the following: the form of language (phonology, morphology, and syntax), the content of language (semantics) and/or the use of language in communication (pragmatics) that is adversely affecting the child's educational performance

(b) Articulation (Speech Sound Production) Impairment – A significant deficiency in ability to produce sounds in conversational speech not consistent with chronological age. This includes a significant atypical production of speech sounds characterized by substitutions, omissions, additions, or distortions that interfere with intelligibility in conversational speech and obstructs learning and successful verbal communication in the educational setting. Speech sound errors may be a result of impaired phonology, motor or other issues.

(c) Voice Impairment – An excess or significant deficiency in pitch, intensity, resonance, or quality resulting from pathological conditions or inappropriate use of the vocal mechanism.

(d) Fluency Impairment – Abnormal interruption in the flow of speech characterized by an atypical rate or rhythm, and/or repetitions in sounds, syllables, words, and phrases that significantly reduces the speaker's ability to participate within the learning environment..

Speech or Language deficiencies identified cannot be attributed to characteristics of second language acquisition, cognitive referencing, and/or dialectic differences.

(17) "Traumatic Brain Injury" means an acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both, that adversely affects a child's educational performance. The term applies to open or closed head injuries resulting in impairments in one or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

Traumatic Brain Disorder may include all of the following:

(a) An insult to the brain caused by an external force that may produce a diminished or altered state of consciousness; and

(b) The insult to the brain induces a partial or total functional disability and results in one or more of the following:

1. Physical impairments such as, but not limited to:

(i) Speech, vision, hearing, and other sensory impairments,

(ii) Headaches,

(iii) Fatigue,

(iv) Lack of coordination,

(v) Spasticity of muscles,

(vi) Paralysis of one or both sides,

(vii) Seizure disorder.

2. Cognitive impairments such as, but not limited to:

(i) Attention or concentration,

(ii) Ability to initiate, organize, or complete tasks,

(iii) Ability to sequence, generalize, or plan,

(iv) Flexibility in thinking, reasoning or problem solving,

(v) Abstract thinking,

(vi) Judgment or perception,

(vii) Long-term or short term memory, including confabulation,

(viii) Ability to acquire or retain new information,

(ix) Ability to process information/processing speed.

3. Psychosocial impairments such as, but not limited to:

(i) Impaired ability to perceive, evaluate, or use social cues or context appropriately that affect peer or adult relationships,

(ii) Impaired ability to cope with over-stimulation environments and low frustration tolerance,

(iii) Mood swings or emotional ability,

(iv) Impaired ability to establish or maintain self-esteem,

(v) Lack of awareness of deficits affecting performance,

(vi) Difficulties with emotional adjustment to injury (anxiety, depression, anger, withdrawal, egocentricity, or dependence),

(vii) Impaired ability to demonstrate age-appropriate behavior,

(viii) Difficulty in relating to others,

(ix) Impaired self-control (verbal or physical aggression, impulsivity),

(x) Inappropriate sexual behavior or disinhibition,

(xi) Restlessness, limited motivation and initiation,

(xii) Intensification of pre-existing maladaptive behaviors or disabilities.

The term does not apply to brain injuries that are congenital or degenerative, or to brain injuries induced by birth trauma.

(18) "Visual Impairment," including blindness, means impairment in vision that, even with correction, adversely affects a child's educational performance. The term includes both partial sight and blindness.

Visual Impairment includes at least one of the following:

(a) Visual acuity in the better eye or both eyes with best possible correction:

1. Legal blindness – 20/200 or less at distance and/or near;

2. Low vision – 20/70 or less at distance and/or near.

(b) Visual field restriction with both eyes:

1. Legal blindness – remaining visual field of 20 degrees or less;

2. Low vision – remaining visual field of 60 degrees or less;

3. Medical and educational documentation of progressive loss of vision, which may in the future affect the student's ability to learn visually.

(c) Other Visual Impairment, not perceptual in nature, resulting from a medically documented condition (i.e., cortical visual impairment).

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Repeal and new rule filed November 30, 2007; effective February 13, 2008. Amendment filed April 30, 2009; effective August 28, 2009. Amendment filed August 13, 2010; effective January 29, 2011.*

0520-01-09-.03 CONSENT.

If a parent revokes consent, the revocation must be in writing and the revocation is not effective until it is received by the local education agency to which consent was granted.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendment filed August 30, 2004; effective December 29, 2004.*

Repeal and new rule filed November 30, 2007; effective February 13, 2008.

0520-01-09-.04 PARENT.

(1) A foster parent may act as a parent if the biological or adoptive parent's authority to make educational decisions on the child's behalf has been terminated under Tennessee law; and

(2) The foster parent:

(a) Has an ongoing relationship with the child for more than one (1) year in duration;

(b) Is willing to make the educational decisions required of parents under the law; and

(c) Has no interest that would conflict with the interest of the child.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.05 FREE APPROPRIATE PUBLIC EDUCATION.

(1) A free appropriate public education (FAPE) shall be available to all children with disabilities, ages three (3) through the school year the student turns twenty-two (22), including those children who have been suspended or expelled from school for more than ten (10) school days in a school year. To meet this obligation each local education agency shall:

(a) Identify, locate, and evaluate all children with disabilities;

(b) Develop and implement child find activities to ensure that all children – including highly mobile children (migrant and homeless children) and those children who are suspected of being a child with a disability, even though they are advancing from grade to grade – are identified, located and evaluated; and

(c) Provide services that address all of a child's identified special education and related service needs, based on the child's unique needs and not on the child's disability.

(2) Facilities.

(a) Facilities that serve children with disabilities must be comparable to facilities that serve children without disabilities.

(b) Educational programs and facilities must be accessible where children with physical disabilities and children without disabilities are both in attendance.

(c) Entrance to and from the facility must be accessible. If access is not visible at the front of the facility, signs must be present to indicate where parking and access to the facility for children and other individuals with disabilities are available.

(3) Transportation. Local education agencies shall provide children with disabilities with special transportation, where necessary.

(a) Children with disabilities shall, whenever appropriate, be provided transportation along with children who are not disabled. Adaptations shall be made to meet the needs of children with disabilities rather than separate transportation whenever appropriate.

(b) Travel time for children with disabilities shall not exceed the travel time for other children, provided that exceptions may be made on the recommendation of an IEP team.

(c) Vehicles used to provide special transportation must meet the requirements established by the state board of education.

(d) Operators and attendants of vehicles providing special transportation requirements established by the state board of education shall be given special training regarding the needs and special requirements of children with disabilities, except when parents are transporting children with disabilities. Special attendants shall be provided when an IEP team determines that such services are necessary.

(e) It is permissible to contract for special transportation provided that the operators, attendants, and vehicles used by a contractor meet the requirements established by the state board of education, except when parents are transporting children with disabilities.

(4) FAPE requirements for children with disabilities in adult prisons.

(a) The following requirements do not apply to children with disabilities who are convicted as adults under state law and incarcerated in adult prisons:

1. The requirements relating to participation of children with disabilities in general assessments, and

2. The requirements relating to transition planning and transition services with respect to the students whose eligibility under IDEA Part B will end, because of their age, before they will be eligible to be released from prison based on consideration of their sentence and eligibility for early release.

(b) Modifications of IEP or placement.

1. If a child with disabilities is convicted as an adult under Tennessee law and incarcerated in an adult prison, the IEP team may modify the child's IEP or placement if the state has demonstrated a bona fide security or compelling penological interest that cannot otherwise be accommodated.

2. The requirements of 34 C.F.R. § 300.320 relating to the definition of an IEP and the general requirements of 34 C.F.R. § 300.114 relating to least restrictive environment do not apply with respect to these modifications.

(5) Charter schools. Charter schools must ensure compliance with the IDEA.

Authority: *T.C.A. §§ 49-10-101, 49-10-701, 49-13-105, and 49-13-126.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendment filed August 30, 2004; effective December 29, 2004. Amendment filed March 1, 2005; effective July 29, 2005. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.06 CHILD FIND.

(1) Each local education agency shall develop and implement procedures for creating public awareness of special education programs and services. This includes a comprehensive system of child find activities for all children suspected of having a disability in public and private schools and facilities and who are homeless. Any child find activities shall be comparable for children in private schools and facilities.

(2) A notice must be published or announced in newspapers, other media, or both, with circulation adequate to notify parents of the activities conducted by the local education agency.

(3) Any child suspected of having a disability may be referred to the local education agency. All referrals shall be in writing to the school principal or director of special education. The local education agency shall establish written procedures for accepting, processing and documenting receipt of each referral. The procedures shall be approved by the state department of education.

Authority: *T.C.A. §§ 49-10-101, and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.07 PLACEMENTS.

(1) A homebound placement is instruction provided at home, hospital or related site to children with disabilities who are eligible pursuant to IDEA and state regulations. Instruction provided to children with disabilities in homebound placements shall be provided by qualified personnel, pursuant to IDEA and state regulations.

(2) Eligibility for Homebound Placements.

(a) Eligibility for instruction as a child with a disability pursuant to IDEA and state regulations shall be established prior to implementation of homebound services. Children with medical conditions of a short duration or temporary nature, and not previously certified as eligible pursuant to IDEA and state regulations, shall not be eligible for homebound placements pursuant to this regulation, and special education funds shall not be used to fund homebound placements for such children.

(b) The IEP team shall consider a medical homebound placement only upon certification by a licensed doctor of medicine or osteopathy that a child with a disability needs a homebound placement, is expected to be absent from school due to a physical or mental condition for at least (10) consecutive school days and that the child can receive instruction in a homebound placement without endangering the health of personnel providing it.

(3) Use of Homebound Placement.

(a) All homebound placements shall be temporary. Homebound placements shall not exceed thirty (30) school days duration. The IEP shall contain a goal of returning the child to a less restrictive environment within the school year, unless there is a medical necessity that requires extended homebound instruction, in which case additional homebound placements of thirty (30) school days or less may be instituted.

(b) An IEP containing a homebound placement shall be reviewed at intervals of thirty (30) school days by the child's IEP team to ensure appropriateness of the provision of instruction and appropriateness of continuing the homebound placement.

(c) Where behavioral and/or disciplinary issues cannot be safely addressed in any other educational setting, the IEP team may consider a homebound placement. Such changes in placement may be instituted strictly on an emergency basis and for a temporary period of time not to exceed thirty (30) school days to determine how to best address the child's needs. The IEP team must document that a homebound placement is necessary, temporary and consistent with requirements for the provision of a free appropriate public education.

(d) The frequency and duration of instruction necessary to provide a free appropriate public education (FAPE) during a homebound placement will be determined by the IEP team.

(e) IDEA Part B funds may be expended only for instruction in homebound placements of children with disabilities who are eligible for special education pursuant to IDEA and state regulations.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.08 STATE ADVISORY PANEL.

The state has established an advisory council on the education of children with disabilities for special education as provided by Tenn. Code Ann. § 49-10-105. The Governor appoints advisory council members.

Authority: *T.C.A. §§ 49-10-105.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendment filed August 30, 2004; effective December 29, 2004. Amendment filed September 6, 2007; effective January 28, 2008. Repeal and new rule filed November 30, 2007; effective*

0520-01-09-.09 LOCAL EDUCATION AGENCY ELIGIBILITY.

(1) Each local education agency shall demonstrate to the satisfaction of the state department of education that it does the following:

(a) Identifies, locates, and evaluates all children who are suspected of having disabilities, including children attending non-public schools, regardless of the severity of their disabilities, and who may be in need of special education and related services. These services may be provided to children with disabilities under early transition agreements who are not yet three (3) years of age. If the child's birthday falls during the summer months, the IEP team will determine when special education services begin but no later than the beginning of the next school year.

(b) Makes available a free appropriate public education to all children with disabilities, ages three (3) through the school year in which they reach age twenty-two (22), including children with disabilities who have been suspended or expelled for more than ten (10) school days in a school year.

(c) Includes children with disabilities in state and district-wide assessments, with appropriate accommodations and modifications where necessary, or in alternate assessments. The type of assessment must be determined by the IEP team consistent with the state guidelines for participation of students with disabilities in state/district wide assessments.

(d) Ensures that children with disabilities participating in early intervention programs shall experience a smooth and effective transition to preschool programs and, that by the third (3rd) birthday, an IEP has been developed and implemented for the child. The local education agency shall participate in the transition planning meeting no less than ninety (90) days prior to the third (3rd) birthday of a child who may be a child with a disability.

(e) Ensures that children with disabilities who are enrolled in private schools or facilities by the local education agency are provided special education and related services, in accordance with the IEP, at no cost to them or to their parents.

(f) Ensures that children with disabilities who are enrolled in private schools by their parents have an opportunity for special education services and that the amount spent to provide those services is a proportionate amount of the federal funds made available to the district. No unilaterally placed private school child with a disability has an individual entitlement to receive some or all of the special education and related services that the child would receive if enrolled in a public school.

(g) Establishes and has in effect policies, procedures, and programs that are consistent with 0520-01-09 for implementing the provision of special education and related services. Ensures compliance with applicable state and federal regulations including, but not limited to:

1. Free appropriate public education;

2. Child Find procedures;

3. Evaluation/reevaluation and determination of eligibility procedures;

4. IEP/IFSP procedures;

5. Confidentiality procedures;

6. Private school services procedures;

7. Goals for performance of children with disabilities through school improvement planning;

8. Inclusion of children with disabilities in state and district-wide assessment programs with appropriate accommodations and modifications and the reporting of assessment data;

9. Interagency agreements to ensure FAPE for all children;

10. Maintenance of effort.

(h) Supplements the provision of special education funds but does not commingle or supplant the provision of special education funding.

(i) Publicizes annual information regarding its special education programs and services and child find activities.

(j) Ensures that special education professionals and paraprofessionals are provided professional development collaboratively with general education personnel.

(k) Ensures that school administrators have professional development, training and the resources to establish challenging expectations and provide access to the general education curriculum in the regular classroom to the maximum extent possible for all children including those eligible for special education.

(l) Submits to the state department of education a comprehensive application annually on or before July 1 with program narratives and assurances for the provision of special education and related services including, but not limited to, the following:

1. A census of children with disabilities showing the total number and distribution of children within its jurisdiction who are provided special transportation;

2. An inventory of the personnel who provide instruction and other services to children with disabilities and a listing of facilities;

3. A description of the extent to which state department of education standards governing special education services will be met including a goal of providing full educational opportunity to all children with disabilities;

4. An assurance that IDEA funds will be used to supplement and not to supplant state and local funds and will be expended only for the excess cost of providing special education and related services to children with disabilities;

5. An assurance that to the maximum extent appropriate, children with disabilities, including children in public and private facilities, are educated with children without disabilities. Special classes, separate schooling or other removal of children with disabilities from the general educational environment occurs only if the nature or severity of the disability is such that education in the general education classes with the use of supplementary aids and services cannot be achieved satisfactorily;

6. An assurance that a continuum of alternative placements and related services are available to meet the needs of children with disabilities;

7. A detailed budget and end of the year report of expenditures of all funds available to provide special education and related services is provided; and

8. An assurance that a free appropriate public education is available to all children with disabilities from age three (3) through the school year in which the student reaches twenty-two (22) years of age, including children who have been suspended or expelled for more than ten (10) school days in a school year.

(2) Specific funding requirements:

(a) For the purpose of entitlement to academic program funds from the Basic Education Program (BEP), children with disabilities shall be counted in the same manner as children without disabilities. To supplement the academic program funds earned and paid from the BEP, special education funds from the BEP shall be paid to local education agencies for the purpose of providing special education and related services to children with disabilities.

(b) Special education funds from the BEP shall be allocated to each local education agency in an amount to be determined by applying the prescribed formula to the number of children with disabilities identified and served during the preceding school year.

(c) The local education agency complies with maintenance of effort if it budgets at least the same total or per-capita amount from the combination of state and local funds as the local education agency spent for that purpose from the prior year. The local education agency may reduce the level of expenditures below the level for the preceding year if the reduction is attributable to the following:

1. The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel, who are replaced by qualified, lower salaried staff;

2. A decrease in the enrollment of children with disabilities;

3. The termination of the obligation of the agency, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the state department of education, because the child:

   (i) Has left the jurisdiction of the agency;

   (ii) Has reached the age at which the obligation of the agency to provide FAPE to the child has terminated; or

   (iii) No longer needs the program of special education.

4. The termination of costly expenditures for long-term high cost purchases.

(d) Each local education agency shall establish appropriate policies and procedures for the administration of IDEA and preschool funds and shall maintain appropriate records and reports to be used in planning and evaluating special education programs and services. The division shall notify each local education agency of its allocation of federal funds annually.

(e) Two or more local education agencies may submit a consolidated annual comprehensive plan, with the approval of the division, under the conditions of federal law:

1. Those participating in a consolidated plan will be jointly responsible for implementing a free appropriate public education program in the participating local education agency; and

2. The consolidated plan must designate one of the local education agencies as the fiscal agent for the plan.

(f) Local education agencies shall use IDEA funds for the excess costs of providing special education and related services to children with disabilities. IDEA funds received by the local education agency must not be commingled with state funds.

(g) Local education agencies must maintain records that demonstrate compliance with the excess cost, non-supplanting, and comparability requirements for at least three (3) years after completion of the project described in the application.

(h) For children with disabilities unilaterally placed in private schools, the same

proportionate amount that is spent on public school children with disabilities from IDEA and preschool grants is allocated for the number of private school children with disabilities within the local education agency's jurisdiction. The preceding December 1 census count is used in calculating private and public school ratios to determine the proportionate amount.

(3) The curriculum adopted by the state board of education shall serve as the basis for developing educational programs. Each local education agency must provide a variety of services, interventions and programs to meet the educational needs of all students including the needs of children with disabilities.

(a) Alternative programs must be provided when appropriate educational goals cannot be met in the general education program.

(b) School improvement plans must include a continuum of educational services, programs and interventions to address the educational needs of all students, including the needs of children with disabilities.

(c) As a component of child find activities, general education programs within each local education agency have specific responsibilities that include the following:

1. Systematic screening of all children in specific grade levels residing within its jurisdiction;

2. Reviewing the educational performance of children who are high risk;

3. Providing interventions and documentation prior to referral for special education evaluation. These intervention strategies should be implemented in the general education program.

(d) The state department of education shall make available to the public reports on assessments of all children with the same frequency and in the same detail as it reports on the assessment of children without disabilities to include:

1. The number of children with disabilities participating in:

(i) Regular assessments; and

(ii) Alternate assessments.

2. Reports to the public must include:

(i) The performance results of children with disabilities if doing so would be statistically sound and would not result in the disclosure of performance results identifiable to individual children;

(ii) Aggregated data that include the performance of children with disabilities together with all other children; and

(iii) Disaggregated data on the performance of children with disabilities.

(4) Each local education agency shall maintain an accurate record of all children with disabilities ages three (3) through the school year a student turns twenty-two (22) years of age who are residing within its jurisdiction. The census shall be taken on December 1 of each year and at other times as required.

(5) Local education agencies shall evaluate their special education programs and related services according to evaluative criteria issued by federal and state authorities.

(6) Monitoring:

(a) Local education agencies, state agencies and private schools shall be monitored on a

periodic basis by the division to determine the extent to which special education and related services are being implemented in the least restrictive environment and to assure compliance with applicable laws and regulations.

(b) The state department of education shall provide technical assistance in self-evaluation, program planning and implementation of any necessary corrective action plans.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendment filed August 30, 2004; effective December 29, 2004. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.10 REPEALED.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendment filed August 30, 2004; effective December 29, 2004. Repeal and new rule filed November 30, 2007; effective February 13, 2008. Amendment filed August 13, 2010 to be effective January 29, 2011; rule was withdrawn by the State Board of Education on October 15, 2010. Repeal filed August 29, 2013; effective January 29, 2014.*

0520-01-09-.11 EVALUATION PROCEDURES.

Guidelines and standards will be established for determining program eligibility criteria, evaluation procedures, and evaluation participants. Revisions to the eligibility criteria must be recommended by a task force within the disability category. Upon recommendations from the Advisory Council for the Education of Students with Disabilities, the assistant commissioner for special education will submit the standards to the State Board of Education for final review and approval.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.12 DEFINITION OF INDIVIDUALIZED EDUCATION PROGRAM (IEP).

Prior to the 9th grade or age fourteen (14) (or younger, if determined appropriate by the IEP team), all students will develop an initial four (4)-year plan of focused and purposeful high school study. The plan will be reviewed annually and amended as necessary and will connect the student's goals for high school including, the courses and/or training and/or skills necessary to meet their potential after high school. This required plan will include identifying possible transition service needs of the student under the applicable components of the student's IEP. This plan may be developed through a process in general education but a copy must be in the students' IEP after approval by the IEP team.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendment filed August 30, 2004; effective December 29, 2004. Repeal and new rule filed November 30, 2007; effective February 13, 2008. Amendment filed October 23, 2013; effective March 31, 2014.*

0520-01-09-.13 WHEN IEPS MUST BE IN EFFECT.

The IEP must be implemented as soon as possible after completion. If agreement was not reached, no change in the child's IEP or eligibility status will be made for fourteen (14) days, in order to afford a parent time to request a due process hearing.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.14 REVIEW AND REVISION OF THE IEP.

Upon written request of any member, the IEP team shall be convened within ten (10) school days to review or revise the IEP or consider the child's placement.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendments filed March 1, 2005; effective July 29, 2005. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.15 PARENT PARTICIPATION.

The local education agency must notify the parents of a child with a disability at least ten (10) days before an IEP meeting to ensure that a parent will have an opportunity to attend. A meeting conducted pursuant to 34 C.F.R. §300.530(e) may be conducted on at least twenty-four (24) hours' notice to the parents.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendments filed March 1, 2005; effective July 29, 2005. Repeal and new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.16 PRIOR NOTICE BY LOCAL EDUCATION AGENCY.

Written notice must be given to the parents of a child suspected to have a disability or a child with a disability at least ten (10) school days prior to a local education agency either proposing or refusing to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed June 19, 2001; effective September 2, 2001. Amendment filed March 1, 2005; effective July 29, 2005. Repealand new rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.17 MEDIATION.

All special education mediations shall be conducted by mediators listed by the Alternative Dispute Resolution Commission as general civil or family mediators pursuant to Tennessee Supreme Court Rule 31 and employed by or contracted by the secretary of state. The administrative office of the courts shall provide legal training in special education law to the mediators who conduct special education mediations. All parties shall participate in mediation in good faith.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.18 IMPARTIAL DUE PROCESS HEARING.

(1) Special education due process cases shall be heard by administrative law judges employed by the secretary of state. Administrative law judges shall have jurisdiction to hear complaints arising under the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400, et seq., as from time to time amended, and Rules of the State Board of Education. The administrative office of the courts shall provide legal training in special education law to the administrative law judges assigned to hear special education due process cases sufficient to comport with the requirements of 20 U.S.C. § 1415, as from time to time amended.

(2) When a hearing is requested, the director of schools shall immediately contact the Division of Special Education.

(3) The local education agency shall be responsible for providing an appropriate meeting place, a stenographic record of the hearing and a typed transcript of the hearing proceedings, and shall bear the administrative costs of the hearing, with the exception of the services of the hearing officer.

(4) Expenses for the services of a court reporter, the original copy of the transcript for the hearing officer and one copy for the parents will be reimbursed upon submission of appropriate documentation to the Division of Special Education.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.19 CIVIL ACTION.

Any party aggrieved by the findings and decision of an impartial due process hearing has the right to bring a civil action with respect to the complaint presented. The action may be brought in any state court of competent jurisdiction in accordance with Tenn. Code Ann. § 4-5-322 and Tenn. Code Ann. § 49-10-601 or in a district court of the United States without regard to the amount in controversy.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.20 SURROGATE PARENTS.

(1) Each local education agency shall have written policies and procedures for the recruitment, training and appointment of surrogate parents.

(2) Each local education agency shall appoint a surrogate parent to represent the child in all matters relating to the identification, assessment, educational placement, and the provision of a free appropriate public education, including meetings concerning the individualized education program, and any mediation and due process hearings pertaining to the child when it determines that:

(a) No parent can be identified;

(b) It is unable to locate a biological parent or legal guardian by calls, visits and by sending a letter by certified mail (return receipt requested) to the last known address of the biological parent or the guardian and allowing thirty (30) days for a response of the intention to appoint a surrogate parent;

(c) If the child is a ward of the State (including a ward of the court or a state agency); or

(d) The educational rights of the parents have been terminated or transferred.

(3) If the health or safety of the child or other persons would be endangered by delaying the change in placement, due to the unavailability of a surrogate, the change may be made sooner, but without prejudice to any rights that the child and parent may have.

(4) The surrogate parent shall continue to represent the child until one (1) of the following occurs:

(a) The child is determined by the IEP team no longer to be eligible for, or in need of special education or related services, except when termination from such programs is being contested;

(b) The parent, who was previously unknown, or whose whereabouts were previously unknown, becomes known;

(c) The legal guardianship of the child is transferred to a person who is able to fulfill the role of the parent;

(d) The local education agency determines that the appointed surrogate parent no longer adequately represents the child;

(e) The child attains eighteen (18) years of age.

(5) Criteria for selection of surrogate parents.

(a) A person selected as a surrogate parent may not be an employee of the state education agency, the local education agency, or any other agency that is involved in the education or care of the child.

1. A person is not considered to be an employee of the local education agency solely because he or she is paid by the local education agency to serve as a

surrogate parent.

2. A person is not considered to be an employee of the State solely because he or she is paid by the State to serve as a foster parent.

(b) A public agency may select a surrogate parent to represent the child for educational purposes. The selected person may be an employee of a nonpublic agency that only provides non-educational care for the child provided they are able to meet the standards and perform the responsibilities of a surrogate parent.

(c) Foster parents, selected by a state agency as the custodian for a child, who have had a foster child or children with disabilities for less than one (1) calendar year, may be appointed by a local education agency to serve as surrogate parents for their foster child or children and may represent the child for educational purposes, provided that they perform the responsibilities of a surrogate parent. Foster parents selected by a state agency as the custodian for a child, who have had a foster child or children with disabilities for one (1) calendar year or more may act as a parent for their foster child if they meet the definition of a parent.

(6) Responsibilities of a surrogate parent.

(a) A surrogate parent must have no interest that would conflict with the interests of the child to be represented;

(b) A surrogate parent must have knowledge and skills that ensure adequate representation of the child, including a functional understanding of the educational rights of children with disabilities;

(c) A surrogate parent must participate in whatever training program might be offered to ensure that they will have knowledge and skills to provide adequate representation of the child;

(d) A surrogate parent must represent the child throughout the special education decision making process of identification, evaluation, program development, initial placement, review of placement, and reevaluation, as appropriate;

(e) A surrogate parent must be acquainted with the child and his or her educational needs;

(f) A surrogate parent must attempt to ascertain the child's educational needs and concerns;

(g) A surrogate parent must respect the confidentiality of all records and information;

(h) A surrogate parent must become familiar with the assistance provided by other human service agencies in the community that affects the child or that might be helpful resources; and

(i) A surrogate parent must monitor the child's educational program and placement.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.21 TRANSFER OF PARENTAL RIGHTS AT AGE OF MAJORITY.

The procedure for determining whether a child with a disability who has attained eighteen (18) years of age is competent to make educational decisions is provided at Tenn. Code Ann. §34-1-101 et seq. and §34-3-101 et seq. Unless the child has been adjudicated incompetent, all rights vest in the child when the child attains eighteen (18) years of age.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.22 AMENDMENT OF RECORDS AT PARENT'S REQUEST.

The local education agency, upon receiving a request from a parent pursuant to 34 C.F.R. §300.618, shall decide, within ten (10) school days of its receipt of the request, whether to amend the information as requested.

Authority: *T.C.A. §§ 49-10-101 and 49-10-701.* ***Administrative History:*** *Original rule filed November 30, 2007; effective February 13, 2008.*

0520-01-09-.23 ISOLATION AND RESTRAINT FOR STUDENTS RECEIVING SPECIAL EDUCATION SERVICES.

(1) Definitions:

(a) "Extended isolation" means isolation which lasts longer than one (1) minute per year of the student's age or isolation which lasts longer than the time provided in the child's individualized education program (IEP).

(b) "Extended restraint" means a physical holding restraint lasting longer than five (5) minutes or physical holding restraint which lasts longer than the time provided in the child's IEP.

(c) "Noxious substance" means a substance released in proximity to the student's face or sensitive area of the body for the purpose of limiting a student's freedom of movement or action, including but not limited to Mace and other defense sprays.

(2) Local education agencies are authorized to develop and implement training programs that include:

(a) Use of positive behavioral interventions and supports;

(b) Nonviolent crisis prevention and de-escalation;

(c) Safe administration of isolation and restraint; and

(d) Documentation and reporting requirements.

(3) Local education agencies are authorized to determine an appropriate level of training commensurate with the job descriptions and responsibilities of school personnel.

(4) Local education agencies shall develop policies and procedures governing:

(a) Personnel authorized to use isolation and restraint;

(b) Training requirements; and

(c) Incident reporting procedures.

(5) Only the principal, or the principal's designee, may authorize the use of isolation or restraint.

(6) When the use of restraint or isolation is proposed at an IEP meeting, parents/guardians shall be advised of the provisions of T.C.A. § 49-10-1301, et seq., this rule and the IDEA procedural safeguards.

(7) An IEP meeting convened pursuant to T.C.A. § 49-10-1304 may be conducted on at least twenty-four (24) hours' notice to the parents.

(8) State agencies providing educational services within a residential therapeutic setting to children in their legal and physical custody shall develop and adhere to isolation and restraint policies in such educational settings which conform to the TDMHDD (Tennessee Department of Mental Health and Developmental Disabilities) state standards as applicable and at least one of the following

national standards: ACA (American Correctional Association), COA (Council on Accreditation), CMS (Centers for Medicare & Medicaid Services), JCAHO (Joint Commission for Accreditation of Healthcare Organizations), CARF (Commission on Accreditation of Rehabilitation Facilities), as they apply in the educational environment. Development of, and adherence to, such policies shall be overseen by a licensed qualified physician or licensed doctoral level psychologist.

(9) Reports.

School personnel who must isolate or restrain a student shall report the incident to the school principal or the principal's designee. The Department of Education shall develop a report form, which shall be used by school personnel when reporting isolation or restraint to the school principal or the principal's designee.

(a) The report form must include the following information:

1. Student's name, age and disability;

2. Student's school and grade level;

3. Date, time and location of the isolation or restraint;

4. Length of time student was isolated or restrained;

5. Names, job titles and signatures of the personnel who administered the isolation or restraint;

6. Whether the personnel who administered the isolation or restraint were certified for completing a behavior intervention training program;

7. Names and job titles of other personnel who observed or witnessed the isolation or restraint;

8. Name of the principal or designee who was notified following the isolation or restraint and time of notification;

9. Description of the antecedents that immediately preceded the use of isolation or restraint and the specific behavior being addressed;

10. A certification that any space used for isolation is at least forty (40) square feet;

11. A certification that school personnel are in continuous direct visual contact at all times with a student who is isolated;

12. How the isolation or restraint ended, including the student's demeanor at the cessation of the isolation or restraint;

13. Physical injury or death to the student, school personnel or both;

14. Medical care provided to the student, school personnel or both;

15. Description of property damage, if relevant; and

16. Date, time and method of parent notification.

(b) A copy of the report form must be provided to the local education agency's director of special education who shall determine whether an Individualized Education Program (IEP) Team meeting must be convened pursuant to T.C.A. § 49-10-1304.

Authority: *T.C.A. §§ 49-10-1306.* ***Administrative History:*** *Original rule filed October 20, 2009; effective January 18, 2010. Amendments filed March 21, 2012; effective August 29, 2012.*

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: August 9, 2016

Signature:

Name of Officer: Dr. Sara Heyburn

Title of Officer: Executive Director

PHYLLIS E. CHILDRESS
STATE OF TENNESSEE NOTARY PUBLIC
DAVIDSON COUNTY
MY COMMISSION EXPIRES 8-20-2019

Subscribed and sworn to before me on: 8/9/16

Notary Public Signature: Phyllis E. Childress

My commission expires on:

Department of State Use Only

Filed with the Department of State on: 8/9/16

Tre Hargett
Secretary of State

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