

**RULES
OF
STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-09
SPECIAL EDUCATION PROGRAMS AND SERVICES**

0520-01-09-.05 CHILD FIND AND FREE APPROPRIATE PUBLIC EDUCATION.

- (1) Child Find.
- (a) Every LEA shall develop and implement child find activities to identify, locate, and evaluate all children with disabilities, or who are suspected of having a disability, within its jurisdictional boundaries, ages three (3) through twenty-one (21), both inclusive, who need special education and related services, even though they are advancing from grade to grade. This includes but is not limited to:
 - 1. Children who are enrolled by their Parents in a non-public school located within the jurisdictional boundaries of the LEA;
 - 2. Children who are wards of the state; and
 - 3. Children who are highly mobile (including children who are migrant and children who are homeless).
 - (b) Each LEA shall develop and implement procedures for creating public awareness of special education programs and services. A notice must be published or announced in newspapers, other media (including the LEA's website), or both, with circulation adequate to notify Parents of the activities conducted by the LEA.
 - (c) Any child suspected of having a disability may be referred to the LEA. The LEA shall establish written procedures for accepting, processing and documenting receipt of each referral. The procedures shall be subject to review by the Department of Education.
 - (d) As a component of child find activities, general education programs within each LEA shall provide and document interventions implemented in the general education program.
 - (e) A Parent may request that the LEA conduct a full and individualized evaluation of the Parent's child to determine if the child has a disability and is eligible for special education and related services.
 - (f) Eligibility determinations shall be completed within sixty (60) calendar days of receipt of parental consent for an initial evaluation.
- (2) Free Appropriate Public Education (FAPE).
- (a) FAPE shall be made available to all children with disabilities, including those children who reach twenty-two (22) years of age during the school year and children who have been suspended or expelled from school for more than ten (10) school days in a school year.
 - (b) To meet the obligations of FAPE, each LEA or Charter School shall 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.

(Rule 0520-01-09-.05, continued)

- (c) Charter Schools shall ensure students with disabilities receive education services required by their IEP. LEAs shall be responsible for ensuring that children with disabilities attending a charter school authorized by the LEA are provided FAPE.
- (d) The Tennessee academic standards adopted by the State Board of Education shall serve as the basis for developing special education programs. Each LEA and Charter School shall provide a variety of services, interventions, and programs to meet the educational needs of all students, including the needs of children with disabilities.
- (e) LEAs and Charter Schools shall provide children with disabilities with special transportation as required by the student's IEP.
 - 1. Children with disabilities shall, whenever appropriate, be provided transportation along with children who do not have disabilities. Adaptations shall be made to meet the needs of children with disabilities rather than separate transportation whenever appropriate.
 - 2. Travel time for children with disabilities shall not exceed the travel time for other children, provided that exceptions may be made by the IEP team.
 - 3. Vehicles used to provide special transportation must meet the requirements established by the State Board's Pupil Transportation Rule 0520-01-05.
 - 4. Operators and attendants of vehicles who provide special transportation 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.
 - 5. LEAs may 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.
- (f) Children with disabilities who are convicted as adults under state law and incarcerated in adult prisons shall be entitled to their rights under IDEA with the following exceptions:
 - 1. The following requirements do not apply:
 - (i) Participation of children with disabilities in general statewide assessments; and
 - (ii) 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.
 - 2. 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. 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.

(Rule 0520-01-09-.05, continued)

Authority: T.C.A. §§ 49-10-101 et seq., 49-13-111, 49-13-126, and 34 C.F.R. Part 300. **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. Emergency rules filed June 29, 2017; effective through December 26, 2017. Amendments filed August 11, 2017; effective November 9, 2017. Amendments filed May 14, 2021; effective August 12, 2021.

0520-01-09-.15 PARENT PARTICIPATION IN IEP MEETINGS.

- (1) An LEA must notify the Parent of a child with a disability at least ten (10) calendar days before an IEP meeting to ensure that the Parent has an opportunity to attend, unless the Parent and LEA mutually agree to meet prior to ten (10) calendar days pursuant to Rule 0520-01-09-.12.
- (2) If an LEA creates a draft IEP prior to an IEP meeting, a copy of the draft IEP shall be provided to the Parent at least forty-eight (48) hours prior to the scheduled meeting time unless the Parent provides written notice to the LEA more than forty-eight (48) hours prior to the scheduled meeting declining his or her right to receive a copy of the draft IEP. The Parent meeting notification shall advise the Parent that they may decline their right to receive a copy of the draft IEP.
 - (a) If a draft IEP is provided it shall become the property of the Parent(s).
 - (b) An LEA shall not have the final IEP completed before an IEP meeting and the LEA shall make it clear to the Parent at the outset of the meeting that the services proposed by the LEA are preliminary recommendations for review and discussion with the Parent.
- (3) An LEA must notify a Parent at least twenty-four (24) hours prior to a manifestation determination review conducted pursuant to 34 C.F.R. § 300.530(e).
- (4) Written notice must be given to the Parents of a child suspected to have a disability or a child with a disability within at least ten (10) school days of the following:
 - (a) Proposal to initiate or change the identification, evaluation, or educational placement of the child or the provision of FAPE to the child; or
 - (b) Refusal 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 et seq. and 34 C.F.R. Part 300. **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. Emergency rules filed June 29, 2017; effective through December 26, 2017. Amendments filed August 11, 2017; effective November 9, 2017. Amendments filed December 12, 2018; effective March 12, 2019. Amendments filed May 14, 2021; effective August 12, 2021