
Residential Mental Health Facilities Rule 0520-01-20-.02 through -.05

The Background:

State Board of Education Residential Mental Health Facilities Rules 0520-01-20-.02 through -.05 outline requirements for the admission of Tennessee public school students to out-of-state residential mental health facilities in compliance with T.C.A. § 49-3-370. T.C.A. § 49-3-370(b) requires local education agencies (LEAs) to allocate state and local funding to out-of-state residential mental health facilities when certain conditions are met. Public Chapter 884 of the 113th General Assembly, enacted in the 2024 legislative session, made the following changes to the conditions for admission set forth in T.C.A. § 49-3-370:

1. Removed the condition that the residential mental health facility serves at least fifteen Tennessee students per school year.
2. Removed the condition that the student has an active individualized education program (IEP) at the time of the student's placement at the residential mental health facility.
3. Removed the condition that the student be enrolled in and have attended a Tennessee public school for the full school year immediately preceding the student's placement at the facility and instead requires that the student be enrolled in and attending a Tennessee public school at the time of the student's admission to the facility. Also added a requirement that the student's parents be residents of Tennessee at the time of the student's placement in the facility.

This emergency rule is necessary pursuant to T.C.A. § 4-5-208(a)(5) to ensure that the State Board can implement revised rules by the required effective date of July 1, 2024. Because Public Chapter 884 takes effect on July 1, 2024, and out-of-state residential mental health facilities may begin submitting invoices to LEAs immediately, the State Board must promulgate emergency rules to ensure that the conditions for allocating funding to out-of-state residential mental health facilities listed in State Board Chapter 0520-01-12 are aligned with Public Chapter 884 and to ensure that the rules are adjusted to ensure clarity regarding the admission of students both with and without IEPs.

First reading of a permanent rule will be brought to the State Board for approval at its August 16, 2024, quarterly meeting.

The Fiscal Analysis Impact:

T.C.A. § 49-1-212 requires that the Department prepare a fiscal analysis of any policy, rule, or regulation proposed to the State Board of Education. The amendments to Rules 0520-01-20-.02 through -.05 will likely result in LEAs allocating additional state and local funding to out-of-state residential mental health facilities, but the amendments are required to remain in compliance with state law. The proposed rule revisions do not have any fiscal impact beyond the authorizing legislation.

Connection to the [Master Plan](#):

This item supports the State Board's strategic focus on effective implementation of education policy by ensuring its rules are reviewed and updated based on changes in law.

The Recommendation:

The Department of Education recommends approval of this item on first and final reading. The SBE staff concurs with this recommendation.