

**RULES
OF
THE STATE BOARD OF EDUCATION**

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

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

- (1) Special education and related services must be determined by the child's individualized education program (IEP) team based on the individual needs of the child.
- (2) Except when a written explanation to the contrary is included, the IEP of a child with a disability must include:
 - (a) Pre-vocational assessments for students in kindergarten through grade six (K-6), inclusive, or students of comparable chronological age;
 - (b) Appropriate measurable postsecondary goals based upon age-appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills for the first IEP that will be in effect when the student turns fourteen (14) years old as part of the IEP transition plan; and
 - (c) Courses of study, transition services, and annual IEP goals that will reasonably enable the student to meet the postsecondary goal in the first IEP that will be in effect when the student turns fourteen (14) years old as part of the IEP transition plan.
- (3) To ensure timely access to FAPE, the IEP shall be implemented as soon as possible after development of the IEP. However, if agreement was not reached on the IEP, no change in the child's IEP or eligibility status shall be made for fourteen (14) days, in order to afford a parent time to request a due process hearing.
- (4) Upon written request of any member, the IEP team shall be convened within ten (10) school days or on a mutually agreed upon date and time.
- (5) A child with a disability must be educated in the least restrictive environment. Special classes, separate schooling, or other removals of a child with a disability from the regular educational environment must occur only when, and to the extent that, the student's IEP team determines that the nature or severity of the child's disability is such that education in regular classes with the use of supplementary aids and services cannot be achieved satisfactorily. To the maximum extent appropriate, a child with a disability must be educated alongside the child's typically developing peers.

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. 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. 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.

(Rule 0520-01-09, continued)

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., state special education law, and the 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 LEA director of schools shall immediately contact the Department of Education Division of Special Education.
- (3) The LEA 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, up to \$5,000, for the services of a court reporter, the original copy of the transcript for the hearing officer and one (1) copy for the parents will be reimbursed upon submission of appropriate documentation to the Department of Education.

Authority: T.C.A. §§ 49-10-101 et seq, 49-10-601 et seq. and 34 C.F.R. Part 300. **Administrative History:** Original 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. effective November 9, 2017. Amendments filed May 14, 2021; effective August 12, 2021.

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 or in a district court of the United States without regard to the amount in controversy.

Authority: T.C.A. §§ 49-10-101 et seq. 49-10-601 et seq. and 34 C.F.R. Part 300. **Administrative History:** Original rule filed November 30, 2007; effective February 13, 2008.