

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-12
EDUCATION OF INCARCERATED STUDENTS**

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0520-01-12-.01 SCOPE OF RULES.

- (1) Each Local Education Agency (LEA) shall be responsible for providing educational services to all students detained for longer than seventy-two (72) hours in a Center located in the LEA's jurisdiction, as set forth below in Rule 0520-01-12-.03.
- (2) A Center shall be considered within an LEA's jurisdiction when the Center is within the geographic boundaries of the LEA, and the LEA can serve the educational needs for the grade level of the student located at the Center. In the event the Center is located within the geographic boundaries of an LEA that cannot serve the educational needs for the grade level of the students incarcerated, the Center shall be within the jurisdiction of the LEA serving the county in which the Center is located, unless an agreement between LEAs states otherwise. In the event of any dispute between LEAs, the Department of Education shall determine which LEA is responsible for providing educational services.
- (3) Educational services may be provided directly by the LEA, through contract, or through other methods deemed appropriate by the LEA and approved by the Department.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.02 DEFINITIONS.

- (1) "Center" means a Detention Center as defined in T.C.A § 37-5-501 and licensed by the Department of Children's Services under T.C.A. § 37-5-502.
- (2) "Commissioner" means the Commissioner of the Tennessee Department of Education.
- (3) "Comparable Services" means special education and related services that are equivalent or similar to those included on the student's last effective individualized education program (IEP) prior to incarceration.
- (4) "Department" means the Tennessee Department of Education.

(Rule 0520-01-12-.02, continued)

- (5) "ESP" means an Educational Service Plan, which shall be developed jointly by the Home L E A and the Receiving L E A.
- (6) "Home LEA" means the Local Education Agency in which the incarcerated student was enrolled at the time of the student's placement into the Center.
- (7) "Instructional Day" means a day when the Receiving L E A is in session and providing classroom instruction based on the Receiving LEA's instructional calendar.
- (8) "LEA" means a Tennessee local education agency and has the same meaning given in T.C.A. § 49-1-103(2)
- (9) "Receiving LEA" means the LEA responsible for providing educational services to students held in a Center outside of their Home LEA, as set forth in Rule 0520-01-12-.01(2).
- (10) "State Board" means the Tennessee State Board of Education.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.03 NOTIFICATIONS AND TRANSFER OF RECORDS.

- (1) Once a student has been held in a Center outside of the geographic boundaries of the student's Home LEA for seventy-two (72) consecutive hours, the Center shall send written notification to the Receiving LEA. The written notification shall include the name of the student incarcerated, the location of the Center, and the first date the student was incarcerated at the Center. The Receiving LEA shall notify the Department of the student's incarceration in accordance with Department guidance
- (2) The Receiving LEA shall request the student's education records from the Home LEA within five (5) business days of receiving the written notification from the Center. The Home LEA shall provide the student's education records to the Receiving LEA within five (5) business days after receipt of the request from the Receiving LEA, but shall provide, at a minimum, the student's transcript and any education records indicating a need for specialized support or instruction within two (2) business days of receiving the request from the Receiving LEA. Education records indicating a need for specialized support or instruction include, but are not limited to the following:
 - (a) A Section 504 plan;
 - (b) An Individualized Education Program (IEP) as defined in State Board Rules Chapter 0520-01-09, including any supporting documents or plans necessary for the student to receive a free appropriate public education (FAPE), such as a behavior intervention plan (BIP) or a safety plan;
 - (c) An Individualized Learning Plan (ILP) as defined in State Board Rules Chapter 0520-01-19; or

(Rule 0520-01-12-.03, continued)

- (d) An Individualized Learning Plan – Dyslexia (ILP-D) as defined in State Board Rules Chapter 0520-01-22.
- (3) Students Receiving General Education Services.
- (a) When a student receiving general education services is held in a Center outside of the geographic boundaries of the student's Home LEA, the student shall remain enrolled in the Home LEA for the purpose of generating funding through the state's K-12 funding formula pursuant to guidelines developed by the Department.
 - (b) No later than the student's eighth (8th) Instructional Day in the Center, the Receiving LEA shall work with the Home LEA to develop an ESP for the student.
 - (c) No later than the student's tenth (10th) Instructional Day in the Center, the Receiving LEA shall ensure that the student begins receiving educational services in accordance with the ESP.
 - (d) When a student receiving general education services exits the Center, the Receiving LEA shall notify the Department within five (5) business days and shall provide the number of Instructional Days the student was held in accordance with Department guidance.
 - (e) The Department shall transfer an amount equal to the per pupil state and local funds generated through the state funding formula from the Home LEA to the Receiving LEA for the length of instructional days a student receiving general education services was held in a Center outside of the geographic boundaries of the student's Home LEA, in accordance with Rule 0520-01-12-.05 of this Chapter.
 - (f) When a student exits the Center, the Receiving LEA shall forward all education records to the student's Home LEA within ten (10) business days if the student returns to the Home LEA or to the student's LEA of next placement if the student enrolls in a new LEA.
- (4) Students Receiving Special Education Services.
- (a) When a student receiving special education services through an IEP is held in a Center outside of the geographic boundaries of the student's Home LEA, the student shall be unenrolled from the Home LEA and fully enrolled in the Receiving LEA no later than the tenth (10th) Instructional Day in the Center. The Receiving LEA shall receive the per pupil state and local funds for the student under the state's K-12 education funding formula.
 - (b) The Receiving LEA shall provide Comparable Services to the student until the Receiving LEA adopts the IEP developed by the Home LEA or develops, adopts, and implements a new IEP. Comparable Services shall be determined based on the individualized needs of the student, not the resources available at the Center.

(Rule 0520-01-12-.03, continued)

- (c) When a student exits the Center, the Receiving LEA shall forward all education records to the student's Home LEA within ten (10) business days if the student returns to the Home LEA or to the student's LEA of next placement if the student enrolls in a new LEA.
- (d) The Receiving LEA shall ensure that the Center complies with the requirements of the Individuals with Disabilities Education Act and state special education law.
- (5) If a student held in a Center is enrolled in a public charter school, the authorizing LEA of the public charter school shall be the Home LEA. The public charter school shall work with the Home LEA to ensure all requirements regarding the transfer of records and funding are met as set forth in paragraphs (3) and (4) of this Rule.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.04 BASIC EDUCATIONAL SERVICES, TESTING REQUIREMENTS.

- (1) The minimum length of the school day for students held in a Center shall be four (4) hours.
- (2) Instruction shall be provided by a teacher holding a valid Tennessee teacher license as provided in T.C.A. Title 49, Chapter 5.
- (3) For students held in a Center outside their Home LEA, the Receiving LEA shall consult with the Home LEA on how the Receiving LEA may best provide basic educational services in, at a minimum, English Language Arts and Mathematics for the student. The Receiving LEA shall set forth the general education services available to each student in an ESP.
- (4) Pursuant to the federal Every Student Succeeds Act, each Receiving LEA shall ensure that Centers comply with the following testing requirements:
 - (a) Each student shall complete a nationally norm-referenced pre-test approved by the Department, no later than the student's fifth (5th) Instructional Day at the Center.
 - (b) Each student shall complete a benchmark assessment at least every four (4) weeks the student remains incarcerated in the Center.
- (5) The Receiving LEA shall be responsible for ensuring that students receive all services, supports, and accommodations required by federal and state law, including, but not limited to, services, supports, and accommodations required under Section 504 of the Rehabilitation Act of 1973 and Title VI of the Civil Rights Act of 1964.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018. Amendments filed December 12, 2018; effective March 12, 2019.

(Rule 0520-01-12, continued)

0520-01-12-.05 CALCULATION OF FUNDS.

- (1) For general education students, the Department shall calculate the daily rate of funds to be transferred from the Home LEA to the Receiving LEA to be used for the student's education. The funds shall be allocated on a prorated daily basis for the length of the student's incarceration. The funds shall be calculated as follows:
 - (a) Per pupil state and local funds generated through the state's K-12 education funding formula and additional local funds received by the LEA in the prior fiscal year divided by the average daily membership (ADM) from the prior fiscal year to equal the per pupil state and local funding;
 - (b) The per pupil state and local funding is then divided by the one hundred eighty (180) days to equal the total daily rate.
- (2) For students receiving special education services, the Receiving LEA shall receive per pupil state and local funds generated through the state's K-12 education funding formula.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.06 POINTS OF CONTACT.

- (1) The Department, the Tennessee Department of Children's Services, the Receiving LEA, and the Home LEA shall each establish a primary point of contact to resolve issues arising under these Rules. The Receiving LEA's and Home LEA's primary point of contact shall be the person currently filling the Attendance Officer position unless the LEA designates another position. Any designation shall be done in writing and sent to the Department for approval.
- (2) The Department shall maintain a list of all the primary points of contact designated in paragraph (1) of this Rule.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.07 SECURITY.

- (1) The Center shall be responsible for providing a secure setting for the education of students. This space shall be adequate in size and conducive to instruction for the number of students required to be educated at the Center.
- (2) The Center shall supply appropriate staff to ensure the safety of students and Receiving LEA staff in the Center. The Center shall also ensure students are able to access educational services provided by the Receiving LEA.
- (3) Any security decision with respect to student or staff safety shall be within the purview of the Center's director or their designee. A Center's lack of staff or other necessary

(Rule 0520-01-12-.07, continued)

resources shall not absolve the Receiving LEA of its responsibility to provide appropriate educational services to incarcerated students.

- (4) If the Department receives notice that the Center is not providing a secure setting or access to educational services as set forth in paragraphs (1) through (3) of this Rule, the Department shall provide notice to the Commissioner of the Department of Children's Services.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.08 MONITORING AND MEDIATION.

- (1) The Department shall annually monitor each Center to ensure the Receiving LEA's compliance with this Chapter.
- (2) The Department shall monitor the Receiving LEA, Home LEA, and the Center in order to ensure that there are appropriate educational services being offered at the Center.
- (3) If a dispute arises under this Chapter, the dispute shall be mediated by the Commissioner or Commissioner's designee. The Commissioner's or Commissioner's designee's decision with regard to any mediation shall be considered a final and binding decision.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.