

TO: Directors of Schools
FROM: Christy Ballard, General Counsel
DATE: October 31, 2018
SUBJECT: Funding Students Educated in Court-Ordered Day Treatment Facilities (T.C.A. § 49-3-308)

Pursuant to Chapter 810 of the Public Acts of 2018, now codified at [T.C.A. § 49-3-308](#), local education agencies (LEAs) are required to allocate state and local Basic Education Program (BEP) funds to qualifying day treatment facilities providing educational services to students admitted to those facilities under juvenile court order. This memorandum provides guidance on the implementation of T.C.A. § 49-3-308 and supersedes all prior guidance issued by the department or any division thereof.

What is considered a day treatment facility?

As used in T.C.A. § 49-3-308, a day treatment facility is a juvenile justice prevention grant recipient that:

- a. operates as a Category I special purpose school pursuant to State Board of Education [Non-Public School Rule](#), and
- b. provides a minimum of thirty-two (32) hours per week of educational instructional services to students admitted.

Which facilities currently qualify under the law as court-ordered day treatment facilities?

For the 2018-19 school year, the following educational facilities meet criteria stipulated in T.C.A. § 49-3-308:

- Carroll County Juvenile Court, Carroll Academy
- Montgomery County Juvenile Court, Teen Learning Center (Genesis)
- Rutherford County Juvenile Court, Teen Learning Center (Genesis)

How is funding to be allocated to day treatment facilities?

T.C.A. § 49-3-308 requires an LEA to allocate funding to educational facilities in an amount equal to the per pupil state and local BEP funds received by the LEA on a prorated daily basis for the student's length of stay if the following criteria are met:

- a. The student admitted to the facility was enrolled in an LEA in the academic year immediately preceding admission to the facility and is enrolled in the LEA at the time of admittance;
- b. The student has been admitted to the facility under a signed, written court order of a qualified juvenile judge or magistrate of a juvenile court judge in the state of Tennessee, and the juvenile judge or magistrate of a juvenile court has assessed that admittance to the facility is in the best interest of the student and the community; and
- c. The student is not in custody of the Tennessee Department of Children's Services.

An LEA may require that the juvenile court order (that includes the student's name, dates of admission, and signature of the juvenile judge or magistrate of the juvenile court) be submitted to the LEA prior to dispersing funds to the facility. Only days that the student is served during the regular school year shall meet the requirements for funding eligibility. Facilities shall bill based on the LEA's calendar and submit invoices to the LEA within 30 days of the close of each month.

How is the daily rate calculated?

The department's office of local finance calculates the daily rate for each LEA as follows:

- Local funds received in the prior fiscal year (from state maintenance of effort [MOE] on ePlan)
- + State funds received in the prior fiscal year (from the final financial expenditure report [FER] on ePlan)
 - Career Ladder payments received in the prior fiscal year (from the FER on ePlan)
 - BEP funding for transportation (from the BEP final calculation for prior year)
- = Total state and local funds received

The total is then divided by the average daily membership (ADM) from the prior fiscal year to establish the annual per pupil state and local funding. The per pupil amount is then divided by 180 to establish the daily funding amount. The office of local finance will provide the 2018-19 school year daily rates to LEAs by **Nov. 15**.

For questions regarding T.C.A. § 49-3-308 funding allocations, contact Maryanne Durski, executive director of local finance, at Maryanne.Durski@tn.gov.

How do students admitted to day treatment facilities by court order receive special education services?

T.C.A. § 49-3-308 shall not be used or construed to circumvent the requirements of the Individuals with Disabilities Education Act (IDEA) (20 U.S.C. § 1400 – 1482). Special education instruction and related services must be provided at the day treatment facility for the length of the student's stay, and the LEA remains responsible for the provision of a free and appropriate public education.

The LEA may provide special education instruction and services to the student directly or through an agreement with the facility. With both options, IDEA requires both regular and special education teachers to be "teachers of the child." At the facility, those positions may be filled by qualified regular and special education teachers; however, the LEA representative must continue to fulfill his or her responsibilities on the student's IEP team.

How should students admitted to a qualified day treatment centers by court order be coded?

In response to T.C.A. § 49-3-308, the department established a new Education Information System (EIS) code, QDT00. Code QDT00 may be used only for a student admitted to a qualified day treatment facility under a signed, written court order of a qualified juvenile judge or magistrate of a juvenile court judge in the state of Tennessee.

In assigning a student the QDT00 - qualified court-ordered day treatment classification, an LEA must adhere to corresponding attendance and scheduling procedures:

- Consider the student present while attending the day treatment facility.
- Include the student in ADM and average daily attendance (ADA).
- Schedule the student using the course schedules/codes that existed prior to placement in the day treatment facility.

Coding guidance is also included in the [Student Membership and Attendance Procedures Manual](#). For information regarding district accountability for students admitted to day treatment facilities by court order, please see the [District Accountability Protocol](#).

Please contact LaQuisha.Oliver@tn.gov if you have questions regarding the application of this law.