
Special Education Programs and Services, Rules

The Background:

The 2004 reauthorization of the Individuals with Disabilities Act, or IDEA eliminated the requirement that individualized education programs (IEP) for children with disabilities include benchmarks or short term objectives in IEPs other than IEPs of children who take alternate assessments. 20 U.S.C. §1414(d)(1)(A) and 34 C.F.R. §300.320(a)(2). However, states were left with the option to continue to require benchmarks or short term objectives in all IEPs. When the State Board of Education revised Tennessee Rules and Regulations Chapter 0520-01-09, Special Education Programs and Services, effective February 2008, it retained the requirement for benchmarks or short term objectives in all IEPs.

The 2004 reauthorization of IDEA also eliminated the requirement that IEPs include identification of possible transition service needs in the IEP in effect when a child reaches fourteen (14) years of age, or younger if determined appropriate by the IEP team. The IDEA retained the requirement that IEPs include a statement of transition services, including courses of study, beginning not later than the IEP in effect when a child reaches sixteen (16) years of age, or younger if determined appropriate by the IEP team. 20 U.S.C. §1414(d)(1)(A) and 34 C.F.R. §300.320(b). However, states were left with the option to continue to require identification of possible transition service needs in IEPs for children age fourteen (14) or younger. When the State Board of Education revised Tennessee Rules and Regulations Chapter 0520-01-09, Special Education Programs and Services, effective February 2008, it retained the requirement for identification of possible transition service needs in IEPs for children age fourteen (14) or younger.

This rule change would delete Rule 0520-01-09-.12, Definition of IEP, in its entirety. Deletion of the requirement for benchmarks or short term objectives in all IEPs is appropriate because the progress monitoring component of the responsiveness to intervention (RTI) plan and the mandatory high school course of study accurately measure growth and accountability. Additionally, deletion of benchmarks or short term objectives lessens the need for routine removal of students with disabilities from the general education classroom, thereby ensuring complete access to the general education curriculum.

Deletion of the requirement for identification of possible transition service needs in the IEP in effect when a child reaches fourteen (14) years of age is no longer necessary because such needs are addressed in the mandatory high school course of study which is developed for every student at the end of their eighth grade year.

When the State Board of Education revised Tennessee Rules and Regulations Chapter 0520-01-09, Special Education Programs and Services, effective February 2008, it

adopted by reference the Compilation of Federal Regulations at 34 C.F.R. Parts 300 and 301 in their entirety, unless otherwise provided, as the policies and procedures for administration of special education programs and services in the state. Therefore, deletion of Rule 0520-01-09-.12 will result in adoption by reference of 34 C.F.R. §300.320(a)(2) regarding measurable annual goals and 34 C.F.R. §300.320(b) regarding transition services.

34 C.F.R. §300.320(a)(2) regarding measurable annual goals, provides that all IEPs must include a statement of measurable annual goals, including academic and functional goals designed to meet the child's needs that result from the child's disability to enable the child to be involved in and make progress in the general education curriculum and meet each of the child's other educational needs that result from the child's disability; and, for children with disabilities who take alternate assessments aligned to alternate achievement standards, a description of benchmarks or short-term objectives.

34 C.F.R. §300.320(b) regarding transition services, provides that all IEPs must include, beginning not later than the first IEP to be in effect when the child turns 16, or younger if determined appropriate by the IEP Team, and updated annually, thereafter, appropriate measurable postsecondary goals based upon age appropriate transition assessments related to training, education, employment, and, where appropriate, independent living skills; and the transition services (including courses of study) needed to assist the child in reaching those goals.

The Recommendation:

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

Proposed Rule Revision

Rule 0520-01-09-.12 Special Education Programs and Services is amended by deleting the regulation in its entirety.