

**RULES  
OF  
STATE BOARD OF EDUCATION**

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

**0520-01-09-.10 FUNDING REQUIREMENTS.**

- (1) State funds shall be allocated to each LEA in an amount to be determined by applying the applicable State funding formula to the children with disabilities identified and served during the preceding school year.
- (2) In accordance with T.C.A. § 49-10-109, if an LEA is found by the commissioner of education to have failed to provide a FAPE to all children with disabilities who by law are entitled to receive a FAPE from the LEA, then the commissioner may withhold all or any portion of the State funding for the LEA as, in the commissioner's judgment, is warranted.
- (3) Pursuant to 34 § C.F.R. 300.203, maintenance of effort shall be met if the LEA budgets at least the same total or per-capita amount from the combination of state and local funds as the LEA spent for that purpose from the prior year. The LEA may reduce the level of expenditures below the level for the preceding year if the reduction is attributable to the following:
  - (a) The voluntary departure, by retirement or otherwise, or departure for just cause, of special education or related services personnel, who are replaced by qualified, lower salaried staff;
  - (b) A decrease in the enrollment of children with disabilities;
  - (c) The termination of the obligation of the LEA, consistent with this part, to provide a program of special education to a particular child with a disability that is an exceptionally costly program, as determined by the Department, because the child:
    1. Has left the jurisdiction of the LEA;
    2. Has reached the age at which the obligation of the LEA to provide FAPE to the child has terminated; or
    3. No longer needs the program of special education;
  - (d) The termination of costly expenditures for long-term high-cost purchases.
- (4) Each LEA shall establish appropriate policies and procedures for the administration of IDEA and preschool funds and shall maintain appropriate records and reports to be used in planning and evaluating special education programs and services. The Department shall notify each LEA of its allocation of federal funds annually.
- (5) LEAs shall use IDEA funds for the excess costs of providing special education and related services to children with disabilities. IDEA funds received by the LEA shall not be commingled with state funds.
- (6) LEAs shall maintain records that demonstrate compliance with the excess cost, non-supplanting, and comparability requirements for at least three (3) years after completion of the project described in the LEA's application for federal funds.

(Rule 0520-01-09-.10, continued)

- (7) Subject to the availability of federal funds, the Department of Education shall establish a process for LEAs to request reimbursement for high-cost children with disabilities.
- (a) An LEA shall include qualifying services provided to children with disabilities in each public school in the LEA, including charter schools authorized by the LEA, in the LEA's annual request for high-cost reimbursement.
  - (b) An LEA shall coordinate with charter schools authorized by the LEA in the same manner that the LEA coordinates with its other public schools in requesting reimbursement for high-cost children with disabilities.
  - (c) An LEA shall provide to charter schools authorized by the LEA applicable high-cost reimbursement funds received by the LEA for any qualifying special education expenditures incurred directly by the charter school.
- (8) Two (2) or more LEAs may submit a consolidated annual comprehensive plan, with the approval of the Department, under the conditions of federal law:
- (a) Those participating in a consolidated plan will be jointly responsible for implementing a FAPE program in the participating LEA; and
  - (b) The consolidated plan must designate one (1) of the LEAs as the fiscal agent for the plan.
- (9) For children with disabilities unilaterally placed in non-public schools, the same proportionate amount that is spent on public school children with disabilities from IDEA and preschool grants is allocated for the number of non-public school children with disabilities within the LEA's jurisdiction. The preceding December 1<sup>st</sup> special education child count is used in calculating non-public and public school ratios to determine the proportionate amount.

**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 August 13, 2010 to be effective January 29, 2011; rule was withdrawn by the State Board of Education on October 15, 2010. Repeal filed August 29, 2013; effective January 29, 2014.

#### **0520-01-09-.11 EVALUATION PROCEDURES.**

The Department of Education, in consultation with the Advisory Council for the Education of Students with Disabilities and other stakeholders with expertise in each disability category, shall establish standards for determining program eligibility criteria, evaluation procedures, and evaluation participants. These standards shall be submitted by the Department of Education to the State Board for final review and approval.

**Authority:** T.C.A. §§ 49-10-101 et seq. **Administrative History:** Original rule filed June 19, 2001; effective September 2, 2001. Repeal and new rule filed November 30, 2007; effective February 13, 2008.