

Tennessee Investment in Student Achievement (TISA) Rule Recommendation Chapter 0520-12-05

The Background:

In the 2022 legislative session, the Tennessee General Assembly passed the Tennessee Investment in Student Achievement (TISA) Act (Chapter 966 of the 2022 Public Acts) which will transition the state to a student-based funding formula starting in the 2023-24 school year. The TISA Act specifically requires rulemaking by the Tennessee Department of Education (Department) in certain areas to define important terms and establish processes and procedures for funding disbursements. TISA requires the Department to submit the rules to the State Board of Education (SBE) for a positive, neutral, or negative recommendation, and include SBE's recommendation in the filing of the rules with the Secretary of State's office.

The Department released the proposed TISA Rule Chapter 0520-12-05 on June 6, 2022. All Tennesseans were invited to submit public comment and feedback on the proposed rules through August 2, 2022. The Department also held a public rulemaking hearing on July 28, 2022 to gather additional feedback on the rules. This final version of the Department's TISA rules incorporates feedback submitted during the public comment period.

Below is a brief summary of each rule and, if applicable, a short description of revisions made to the rule in response to public comment:

- **Introduction to TISA Rule 0520-12-05-.01** – The Introduction rule provides the introduction to TISA, stating that each student generates a funding allocation that includes a base funding amount, weighted allocations, and direct allocations in accordance with TISA law and rule.
 - A single clerical change was made to correct a T.C.A. citation in the introduction.
- **Chapter Definitions Rule 0520-12-05-.02** – The Definitions rule outlines the term definitions used throughout the rules. The majority of the definitions used in the rules come directly from Public Chapter 966 and include a reference to the statutory citation. This section also includes new term definitions that are not contained in law and used throughout the TISA rules in other sections.
 - Several changes were made to this rule to improve clarity and address public feedback, including adding definitions for the terms “dyslexia,” “least restrictive environment,” “local share,” “minimum universal reading screener matrix,” “non-English language background student”, “student with a disability,” and replacing “significantly exceeded” with “significant growth”. These terms are used in other rule sections and the new definitions provide additional clarity in those sections. Additionally, changes were made to the definitions of “English Learner Tier II Services,” “English Learner Tier III Services,” and “Characteristics of Dyslexia” to address public feedback related to how students with these ULNs are identified.

Lastly, edits were made to the definitions of different types of direct services for students with disabilities to provide clarity and consistency in the rules.

- **Base Funding Amount Rule 0520-12-05-.03** – The Base Funding Amount rule states that the base funding amount for TISA in a given year is subject to an annual appropriation by the Tennessee General Assembly. TISA is a student-based funding formula in which each student generates a funding allocation that includes the base funding amount, and any weighted or direct allocations for which the student is eligible to receive. For the first year of TISA implementation in the 2023-24 school year, the base funding amount will be \$6,860 per student.
 - There have been no changes to this rule since the Department released the proposed rules on June 6th.
- **Weighted Allocations Rule 0520-12-05-.04** – The Weighted Allocations rule covers the weighted allocations section of the law. Weighted allocations provide student-specific funding allocations in addition to the base amount and are tied to student demographic characteristics and unique learning needs (ULNs). The law specifies a certain percentage of funding in addition to the base that must be provided for certain student demographic characteristics, including economically disadvantaged students, students living in concentrated poverty, students living in small districts, and students living in sparse districts.

Additionally, the law creates ten (10) levels of ULNs and assigns the percentage of funding in addition to the base that each ULN generates. To implement the ULN portion of the TISA, the law requires the department to assign categories to each ULN based on the additional resources required to support each unique learning need. The weighted allocations portion of the rule defines ULNs for several different categories of students with disabilities, English Language learners, and students with characteristics of dyslexia, and assigns each ULN to a number and weight from the law. The rule also clarifies how a student is assessed and identified for each ULN, as well as the requirement for plans to provide services to meet student needs.

- Several changes were made to this rule to improve clarity and address public feedback received, including:
 - Specifying that benchmark assessments used to identify a student with characteristics of dyslexia must be nationally normed and skills based.
 - Adjusting the criteria used to identify a student who has characteristics of dyslexia to include students who displays deficits in 50% or more of grade-appropriate subsets identified by the state’s Minimum Universal Screening Matrix. Revisions were also made to specify that students must demonstrate characteristics of dyslexia as outlined in the Dyslexia Resource Guide and agreed upon by the students teacher and parent/guardian.
 - Removing the K-3 and 4-12 grade bands from the definitions of Tier II and Tier III EL students, and specifying the WIDA cut score used to determine if a student meets the definition of English Learner Tier III.

- Adding in a requirement for the Department to monitor and ensure that LEAs do not disproportionately identify students who generate ULNs.
- **Direct Allocations Rule 0520-12-05-.05** – The Direct Allocations rule contains criteria from the law for which students generate direct allocation funding. These students include rising 4th grade students who are not proficient in ELA, students enrolled in CTE programs, students taking the ACT and ACT-retake, K-3 students, and public charter school students. Additionally, the rules outline how direct allocation amounts will be awarded for students enrolled in CTE programs, including how programs will be categorized and the indicators used to categorize programs.
 - Slight changes were made to the direct allocations rule, including changes to the criteria used to assign weights to in-demand occupations, and changing from every other year to every three years the cadence when CTE program levels and course assignment to progression years will be updated, and clarifying edits for consistency with other rules.
- **Outcomes Bonuses Rule 0520-12-05-.06** – The Outcomes Bonuses rule identifies the student performance goals that will generate additional funds for districts, including additional outcomes weights awarded based on the performance of students in certain subgroups. Outcomes weights include goals for elementary and middle school academic performance, postsecondary readiness, and academic performance for students with disabilities.
 - Several changes were made to this rule to address public feedback received. The Commissioner chose to reconvene the TISA Outcomes Review Committee (after the public comment period had closed) and the committee chose to make the following changes to the rule:
 - Clarifying a student may only generate a single outcome bonus each year, and that outcomes bonuses must be received by both the LEA or the public charter school no later than the fifth payment period.
 - Condensing the “Literacy/ELA 3rd grade” and “Literacy/ELA 4th grade” bonus categories into a single “Elementary School” category and clarifying that a student can generate this bonus by either scoring “meets expectations” or “exceeds expectations” on the 3rd grade ELA portion of TCAP, or by scoring “approaching” or “below” on the 3rd grade ELA TCAP and demonstrating significant growth on the 4th grade ELA TCAP. Significant growth was defined in the definitions rule to mean moving from one performance-band to another in consecutive years.
 - For the “middle school” bonus, changing the eligibility requirement to include a combination of either scoring “meets expectations” or “exceeds expectations” on the 8th grade ELA and math TCAP, or by demonstrating significant growth between the both the 7th and 8th grade ELA and math TCAP.

- For the “High School Post-Secondary Readiness Assessment” bonus, clarifying the ACT score must be a composite score, and changing from a 3-point growth in the ACT to a 4-point growth in the ACT for a student to generate an outcome bonus. Changes also add EL students and students with disabilities into the list of students who can generate an additional 20% weight for this bonus.
 - Adding EL students and students with disabilities into the list of students who can generate an additional 20% bonus for the “High School Industry Credential” and “ReadyGrad” bonus categories.
 - Adding language directing the Department to explore additional alternative options to measure “significant growth” through the TISA Outcomes Review Committee.
 - Adding language to ensure students who are enrolled in programs leading to industry certifications shall be eligible to generate outcome bonuses for the entirety of the student’s enrollment in the program.
 - Adjusting certain percentages of outcome bonuses, so that percentages are consistent across all outcome bonuses.

- **Fast-Growth Eligibility and Calculation Rule 0520-12-05-.07** – The Fast Growth Eligibility and Calculation rule explains the methodology used to determine LEA eligibility for the fast-growth stipend or infrastructure stipend. Both stipends are subject to appropriation by the Tennessee General Assembly, and the rules codify the calculation of each stipend. Pursuant to Public Chapter 966, LEAs are eligible for a fast growth stipend if the LEA experiences growth over 1.25% in the total allocation generated by students in non-virtual schools compared to the previous year. Furthermore, LEAs are eligible for an infrastructure stipend if the LEA experiences growth in average daily membership (ADM) in non-virtual schools over 2% for three consecutive years. Fast-growth stipends will be distributed five times each year and infrastructure stipends will be distributed once each year.
 - Slight changes were made to this rule to improve clarity and address public feedback, including specifying that the five points throughout the year in which the Department will run the TISA formula using current school year data will be to meet the distribution timeline outlined in the rule. Additionally, changes were made to clarify that the fast-growth stipend and infrastructure stipend does not require additional local contribution funds.

- **Local Contribution and Fiscal Capacity Rule 0520-12-05-.08** – The Local Contribution and Fiscal Capacity rule outlines the calculation of the local contribution required of LEAs and determines the fiscal capacity measures used in TISA calculations. This section of the rule was taken directly from Public Chapter 966 and is essentially unchanged from how local contribution and fiscal capacity was calculated under the BEP. To determine the local contribution, the Department will multiply each of the total statewide allocations generated under the base and weighted components of TISA by 30%. The resulting amounts will be multiplied by each county’s fiscal capacity to determine the LEA’s local contribution for each component.

Additionally, as was the process under the BEP, the Department will use fiscal capacity indices from the Tennessee Advisory Council on Intergovernmental Relations (TACIR) and the Boyd Center for Business and Economic Research (CBER) at the University of Tennessee, weighted equally. The formulas established by both TACIR and CBER are required to be evaluated by the Tennessee Comptroller of the Treasury and approved by SBE annually.

- Some changes were made to this rule to improve clarity and address public feedback, including clarifying how local contribution will be calculated for counties with multiple LEAs, and specifying that the Comptroller of the Treasury may make recommendations on any changes to the fiscal capacity formulas to the TISA review committee.
- **Cost Differential Factor Eligibility and Calculation Rule 0520-12-05-.09** – The Cost Differential Factor (CDF) Eligibility and Calculation rule outlines the calculation and methodology for CDF grants for eligible LEAs. The CDF grant is subject to annual appropriations by the General Assembly, and the grant is outside of the TISA formula meaning funds will be appropriated and disbursed through a separate grant. LEAs are eligible for the CDF grant if they are in a county in which the cost of living is greater than the statewide average. The Department will calculate the amount of CDF grants annually based on data from the Boyd Center for Business and Economic Research (CBER), annual appropriations, and TISA allocations.
 - Slight changes were made to this rule to improve clarity and address public feedback, including specifying that the Department shall distribute CDF grants subject to annual appropriations to better align with the language in Public Chapter 966.
- **Data Collection Calculations and Appeals Rule 0520-12-05-.10** – The Data Collection Calculations and Appeals rule outlines the process for collecting and verifying data from LEAs, and data reporting requirements from the Department. The data required to be collected for TISA calculations currently exists at the LEA and/or state level, and the Department’s TISA guide will provide additional guidelines for LEAs on data collection. The Department will use nine reporting periods to calculate the average daily membership (ADM) for each LEA to more accurately represent the students served by each LEA and take into account student mobility. LEAs will have an opportunity to correct substantive reporting deficiencies and appeal final TISA allocations. These processes will be further detailed in the TISA guide.
 - Slight changes were made to this rule to improve clarity and address public feedback, including clarifying that LEAs must certify period data by the last business day of each reporting period month and that the Department will provide the snapshot of an LEA’s reporting period data to each LEA.
- **ADM Calculations Rule 0520-12-05-.11** – The ADM Calculations rule describes the ADM calculations to implement TISA. ADM will be calculated using the same methods as under the BEP. ADM data from the prior year will be used to calculate the following year’s TISA allocations. For example, ADM from the 2022-23 school year will be used for 2023-24 TISA allocations.

- Slight changes were made to this rule to improve clarity and address public feedback, including clarifying how ADM funding is calculated for small and sparse districts, and clarifying that the Department shall apply certain minimum allocation requirements annually when distributing TISA funds. Additionally, a requirement was added for the Department to report longitudinal and comparative school and district-level funding and district, state, and federal-level per-pupil expenditure data reporting in transparent and interactive formats annually beginning no later than December 2024.
- **Distribution of Funds Rule 0520-12-05-.12** – The Distribution of Funds rule documents the methodology by which TISA funds are distributed to LEAs and addresses the distribution of supplemental grants named in Public Chapter 966, including grants for LEAs in distressed or at-risk counties. TISA funds will be distributed to LEAs ten times throughout the school year, August through April, with the final payment in June. Additionally, pursuant to Public Chapter 966, an LEA’s allocation shall not decrease more than 5% from one year to the next. If this should occur, the Department shall allocate additional funds to the LEA to result in a reduction of no more than 5%.
 - Slight changes were made to this rule to improve clarity and address public feedback, including clarifying that LEAs shall distribute state and local funds to their authorized public charter schools in accordance with SBE rules. Changes also clarify that if an LEA’s TISA allocation decreases by more than 5% from the prior year, the Department will use the relative contribution of state and local funds in the original TISA allocation for the funded year when setting state and local contributions. Lastly, a change was made to require the Department to annually report longitudinal and comparative per-pupil expenditures in a transparent and interactive format beginning no later than December 2024.
- **BEP Transition Funding Rule 0520-12-05-.13** – The BEP Transition Funding rule outlines the procedures for calculating transition funding from the BEP to TISA during the first four years of implementation. This rule section is taken directly from Public Chapter 966, stating that in the first year of TISA implementation (i.e. 2023-24 school year), if an LEA’s TISA allocation is less than the baseline funding amount, the Department shall allocate funding to cover the full difference. For the next three years of implementation, if there continues to be a difference between the TISA allocation and the baseline funding amount, the Department will gradually step-down financial support for the LEA.
 - There have been no changes to this rule since the Department released the proposed rules on June 6th.
- **Educator Salary Increases Rule 0520-12-05-.14** – The Educator Salary Increases rule states that any annual increase in the TISA base amount may be restricted by the Tennessee General Assembly to provide salary increases to existing educators as defined in T.C.A. § 49-3-104(11) of Public Chapter 966. This section of the rule was taken directly from Public Chapter 966. Additionally, the requirements of SBE to increase the state minimum salary schedule, and the requirements for LEAs, public charter schools, and the Department to report on how state funds for salary increases were utilized are also taken from existing state law.

- One revision was made to clarify that the Department shall report to LEAs and public charter schools the respective restricted amount of funds to be used for educator salary increases pursuant to this rule.

The Recommendation:

No staff recommendation is given for this item.