



Residential Mental Health Facilities

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BEST FOR ALL

We will set all students on a path to success.

ACADEMICS

ALL TENNESSEE STUDENTS WILL HAVE ACCESS TO A HIGH-QUALITY EDUCATION, NO MATTER WHERE THEY LIVE

STUDENT READINESS

TENNESSEE PUBLIC SCHOOLS WILL BE EQUIPPED TO SERVE THE ACADEMIC AND NON-ACADEMIC NEEDS OF ALL STUDENTS IN THEIR CAREER PATHWAYS

EDUCATORS

TENNESSEE WILL SET A NEW PATH FOR THE EDUCATION PROFESSION AND BE THE TOP STATE IN WHICH TO BECOME AND REMAIN A TEACHER AND LEADER FOR ALL



Agenda



- Public Chapter 589/T.C.A. § 49-3-370
- Residential Treatment Placements
- Changes from First Reading to Final Reading
- Questions



Public Chapter 589/ T.C.A. § 49-3-370



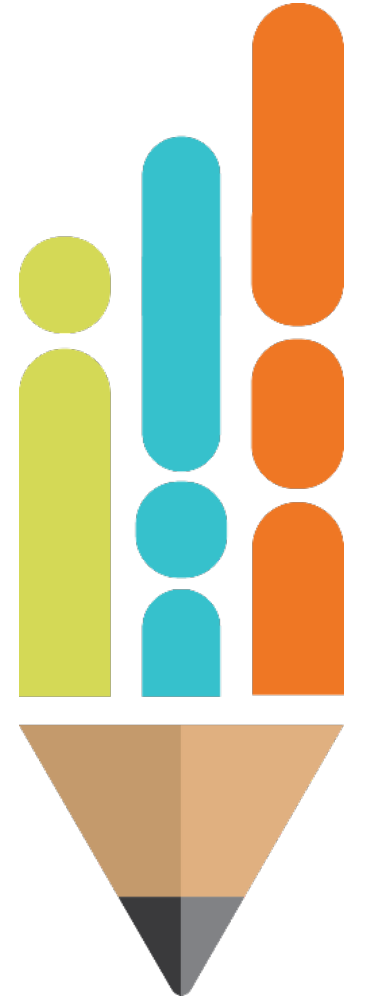
Public Chapter 589/T.C.A. § 49-3-370

Overview:

- T.C.A. § 49-3-370 governs when and how state and local funding is allocated to licensed residential mental health facilities when Tennessee students are admitted
 - PC 589 amended Tennessee Code Annotated (T.C.A.), Section 49-3-370
- PC 589 directs the State Board of Education to promulgate rules to establish procedures for approving educational programs or instructional services provided by out-of-state residential mental health facilities and for the allocation of funds

Timeline:

- Passed by the Tennessee General Assembly on May 5, 2021
- Signed into law by Governor Bill Lee on May 27, 2021



Public Chapter 589/T.C.A. 49-3-370



(a) A local education agency (LEA) shall allocate funding in an **amount equal** to the **per pupil state and local funds** received by the **LEA to a state-licensed residential mental health facility** on a **prorated daily basis** for the student's length of stay if:

(1) The residential **mental health facility operates as a Category I special purpose school-minimum of sixteen and one-half (16 ½) hours per week** of educational instructional services to the students, unless the student's individualized education program (IEP) provides otherwise;

(2) **The student admitted was enrolled in and attended a public school in TN for the one (1) full school year** immediately preceding the student's admission to the facility and is enrolled in a public school in TN at the time of admission to the facility; and

(3) **The student is admitted under a signed, written order of a qualified physician licensed to practice medicine in this state**, the order being based upon **medical necessity**.

Public Chapter 589/T.C.A. 49-3-370



(b) An LEA shall allocate funding in an amount equal to the per pupil state and local funds received by the LEA to an **out-of-state** residential mental health facility on a prorated daily basis for the student's length of stay if:

- (1) There are **no facilities in this state with the capacity to deliver the appropriate mental health treatment** to the student at the time the student is admitted to the out-of-state facility;
- (2) The **facility operates in a state that borders this state;**
- (3) The facility **serves at least fifteen (15) Tennessee students per school year;**
- (4) The department of education determines, prior to the medical placement decision, that the **residential mental health facility's educational programs or instructional services meet the same requirements as a Category I special purpose school.**

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(5) The facility provides a **minimum of sixteen and one-half (16 ½) hours per week of educational instructional services to admitted students, unless the student's IEP provides** otherwise;

(6) The residential mental health facility complies with all applicable health and safety laws, regulations, and codes of the state and locality in which it is located;

(7) **All teachers** at the residential mental health facility **are licensed by the educator licensing authority of the state** in which the facility is located;

(8) The residential mental health facility has at least one (1) teacher with an endorsement in special education or a certification that the department of education determines to be equivalent to an endorsement in special education in this state, to provide special education and related services to admitted students;

(9) The facility has a **sufficient number of teachers with an endorsement in special education** or a certification that the department of education determines to be equivalent to an endorsement in special education in this state, to comply with each student's IEP;

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(10) The facility reports the **attendance** of each admitted student to the **public school** in which the student is **enrolled**;

(11) The facility follows the **admitted student's IEP** as written at the time of the medical placement decision, and as subsequently amended by the student's IEP team during the student's stay at the facility;

(12) The student admitted to the facility **was enrolled in and attended a public school TN for the one (1) full school year** immediately preceding the student's admission to the facility, is enrolled in a public school in TN at the time of admission to the facility, and has an **active IEP** from an LEA in TN at the time of the medical placement decision; and

(13) The student is admitted to the facility under a **signed, written order of a qualified physician** licensed to practice medicine, the order being based upon both medical necessity and the most appropriate medical services for the child.

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(c) If an LEA allocates funds to an out-of-state facility pursuant to this section, then the **LEA and the department of education are authorized to monitor** the out-of-state facility for compliance with this section, an individual student's IEP, and all other applicable state and federal laws.

(d) If the out-of-state facility **fails to comply** with the requirements of subsection (b), then **the LEA shall cease the allocation of funding** as provided in this section.

(e) The state board of education shall **promulgate rules** to establish procedures for approving educational programs or instructional services provided by out-of-state residential mental health facilities and for the allocation of funds to out-of-state residential mental health facilities for purposes of this section.

(f) The funding specified in subsections (a) and (b) is in addition to funds allocated pursuant to federal law and regulation, including, but not limited to, Title I and ESEA funds.

(g) This part **must not be used or construed to circumvent the requirements of the Individuals with Disabilities Education Act** (20 U.S.C. § 1400 et seq.).

Residential Treatment Placements



Residential Treatment Placements



Overview of Residential Treatment Facilities:

- Residential treatment facilities (RTFs) provide **clinical services** including **psychiatric and therapeutic treatment** in a 24-hour-a-day residential facility for children and youth with significant emotional and/or psychological treatment needs.
- Individualized treatment plans are developed for each child/youth and length of stay varies depending on the diagnosis, treatment goals and program structure.
- Tennessee currently has **48 residential treatment facilities**.
- 37 of the 48 facilities are affiliated with the Department of Children's Services (DCS).

Residential Treatment Placements



Placement:

- Placement in RTFs can be made through DCS, a court system or a physician. **In respect to T.C.A. § 49-3-370, we are focused on placements under a signed, written order of a qualified physician licensed to practice medicine.**
- Typically, the **physician must provide evidence that residential treatment is medically necessary** and there is an increased change of harm to the child without this intensive measure.
- Health insurance companies will fund the treatment when a physician can demonstrate the need for a residential placement.

Residential Treatment Placements



Placement (Continued):

While the placement mechanisms can vary, the **criteria for admission are fairly standard** and likely include the following components:

- The child has a **significant** mental health disorder according to the Diagnostic and Statistical Manual of Mental Disorders (DSM-5), and is impaired in social, educational, familial and occupational functioning.
- The child is **unable to** adequately care for physical needs without external support that is beyond the capacity/capabilities of the family and/or other non-inpatient community support.
- The child's current living environment, family setting and extended community **cannot provide the support and access** to therapeutic services necessary to maintain stability or maximize effective daily functioning.

Residential Treatment Placements



Placement:

- The child **cannot achieve** successful adaptation for the purpose of stabilization, at this time, without significant structure and supportive residential guidance that can only be provided through twenty-four (24) hour intervention and supervision in a highly-structured environment.
- The child meets the age, cognitive capacity, adaptive functioning level and/or developmental level requirements necessary for minimal acceptance in the specific setting.
- The child **may pose a high risk** for elopement, instability in behavior and mental health status or occasionally experience acute episodes. The child also experiences persistent maladjustment of peer and other social relationships or other influencing systems which interfere with learning and social environments.

Proposed State Board of Education Rule Chapter 0520-01-20



Proposed State Board of Education Rule Chapter 0520-01-20



The first reading of the rule established the following content:

- 0520-01-20-.01 Purpose
- 0520-01-20-.02 Definitions
- 0520-01-20-.03 Approval of Out-of-State Facilities
- 0520-01-20-.04 Student Admission
- 0520-01-20-.05 Compliance and Monitoring
- 0520-01-20-.06 Calculation of Funds

Changes from First Reading to Final Reading

| Section | First Reading | Final Reading |
|---|--|--|
| <p>0520-01-20-.01 Purpose</p> | <p>The purpose of this Chapter is to establish procedures for approving educational programs or instructional services provided by residential mental health facilities and for the allocation of funding to residential mental health facilities as required by T.C.A. § 49-3-370.</p> | <p>No Changes</p> |
| <p>0520-01-20-.02 Definitions</p> | <p>"Capacity" used but not defined.</p> | <p>"Capacity" definition added. "Capacity" means a bed available in a Tennessee Residential Mental Health Facility to deliver the appropriate mental health treatment to the Student at the time the Student is admitted to the out-of-state Facility.</p> |
| | <p>"Standard Application Form"</p> | <p>Revised to "Standard Initial Application Form"</p> |
| | <p>"Standard Application Renewal Form"</p> | <p>Revised to "Standard Renewal Application Form"</p> |
| <p>0520-01-20-.03 Approval of Out-of-State Facilities</p> | <ul style="list-style-type: none"> Established a first level approval process for out-of-state facilities Bordering state, laws/regulations/codes, TN students served per year, teacher licensure, required hours of educational services, Category 1-Special Purpose School requirements Standard application form | <p>Stylistic changes only</p> |

Changes from First Reading to Final Reading

| Section | First Reading | Final Reading |
|---|--|---|
| 0520-01-20-.04 Student Admission | <ul style="list-style-type: none">• First reading identified a “qualified Physician” as determining capacity.• Established a first level approval process for out-of-state facilitates.• Bordering state, laws/regulations/codes, TN students served per year, teacher licensure, required hours of educational services, Category 1-Special Purpose School requirements.• Standard application form• This second level of approval with the already existing first level approval will allow for the allocation of funds. | Reverted language back to statute regarding “There were no facilitates in Tennessee with capacity to deliver the appropriate mental health treatment to the student at the time the student was admitted to the out-of-state facility”. |
| 0520-01-20-.05 Compliance and Monitoring | <ul style="list-style-type: none">• Required educational services, implementation of IEP, capacity of staff to ensure a free and appropriate public education (FAPE) for the student.• LEA and department share responsibility with monitoring.• Facility may lose departmental approval from non-compliance. | Verbiage added “A Facility that has been notified by the Department of noncompliance shall lose its approval from the Department until the noncompliance is corrected.” |

Changes from First Reading to Final Reading

| Section | First Reading | Final Reading |
|--|--|---------------|
| 0520-01-20-.06 Calculation of Funds | The LEA shall allocate funding to the out-of-state Facility 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, provided that the Facility and Student meets the requirements of this Chapter. | No changes |



Questions?

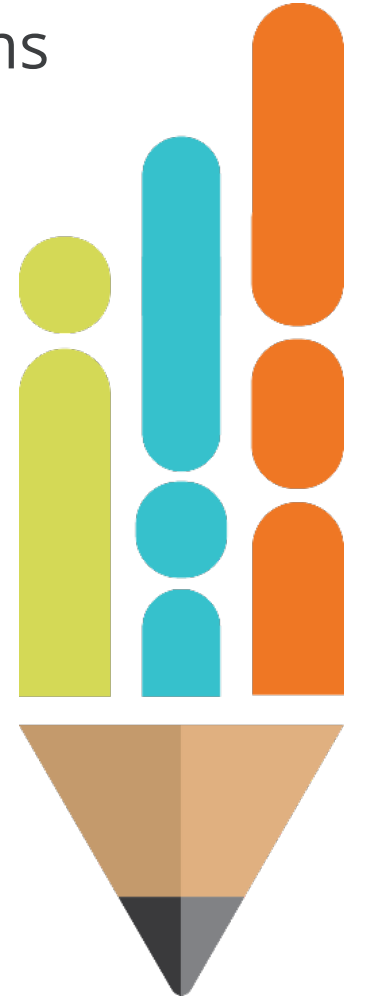
Contact

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Thank you!

