

(Rule 0520-01-11-.02, continued)

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-11
INDIVIDUALIZED EDUCATION ACCOUNTS**

0520-01-11-.02 DEFINITIONS.

- (1) "Account Holder" means a parent as defined in subsection (18) of this section or a Participating Student who has attained the age of majority who signs the IEA contract, is the Account Holder for the IEA funds, and is responsible for complying with all of the requirements of the IEA Program.
- (2) "Act" means the Individualized Education Act.
- (3) "Active IEP" means a written statement for a child with a disability that is developed, reviewed, and revised in accordance with 34 CFR §§ 300.320 through 300.324 that is being implemented on the date the application window for the IEA program closes.
- (4) "Agreement" means a document signed by an applicant and a designee of the Department, which qualifies the parent or student who has attained the age of majority to participate in the Program.
- (5) "Applicant" means the parent or legal guardian of a student, or student who has attained the age of majority, who has completed the Standard Application Form.
- (6) "Computer Hardware or Other Technological Devices" means computer hardware or technological devices approved by the Department or a licensed treating physician that is used for the student's educational needs. Computer hardware and technological devices shall meet one (1) of the following criteria:
 - (a) Is a required device for communication or for physical access to instruction due to the adverse impact of the disability for which the student qualifies to receive an IEA, or
 - (b) Allows a student to access instruction or instructional content.
- (7) "Criminal Background Check" at a minimum shall include, but not be limited to, a check of the following: Tennessee's Sex Offender Registry and the Abuse Registry of the Tennessee Department of Health. All providers as defined in subsection (23) of this section and employers of providers shall maintain documentation that any persons providing services to Participating Students have undergone a fingerprint-based criminal history records check conducted by the Tennessee Bureau of Investigation (TBI) and forwarded by the TBI to the Federal Bureau of Investigation (FBI) for processing pursuant to the National Child Protection Act. All participating schools shall maintain documentation that all persons working on school grounds when students are present and/or providing services to students have undergone a fingerprint-based criminal history records check conducted by the Tennessee Bureau of Investigation (TBI) and forwarded by the TBI to the Federal Bureau of Investigation for processing pursuant to the National Child Protection Act. Individual contractors not employed by an organization shall fulfill the background check requirements by completing a fingerprint-based criminal history records check conducted by the FBI.
- (8) "Department" means the Tennessee Department of Education.
- (9) "Educational Therapies" means:
 - (a) Individualized services designed to develop or improve academic performance through instructional and therapeutic techniques, and provided by licensed therapists who meet

(Rule 0520-01-11-.02, continued)

the requirements set by the Department and the State Board of Education as further defined in the Department's IEA handbook or by therapist assistants who meet the requirements set by the Department and the State Board of Education as further defined in the Department's IEA handbook and who provide the services under the direct supervision of a licensed therapist; or

- (b) Tactile manipulatives recommended by the licensed therapist for the Participating Student pursuant to guidelines set forth by the Department.
- (10) "Eligible Postsecondary Institution" means a Tennessee public community college, college of applied technology, or university of the University of Tennessee system or a locally governed state university within the Tennessee Board of Regents systems, or an accredited private postsecondary institution accredited by one (1) of the following: any accreditation division of Cognia (the North Central Association Commission on Accreditation and School Improvement (NCA CASI), the Northwest Accreditation Commission (NWAC), and the Southern Association of Colleges and Schools Council on Accreditation and School Improvement (SACS CASI)), the Middle States Association of Colleges and Schools (MSA), the New England Association of Schools and Colleges (NEASC), the Western Association of Schools and Colleges (WASC), or the Council on Occupational Education (COE).
- (11) "Eligible Student" means:
- (a) A resident of this state in grades kindergarten through twelve (K-12) with an Active Individualized Education Program (IEP) in accordance with 34 C.F.R §§ 300 et seq., T.C.A. § 49-10-102, and regulations of the State Board of Education with one (1) of the following qualifying disabilities as defined by the rules of the State Board of Education 0520-01-09-.02 as the primary or secondary disability in effect at the time the Department receives the request for participation in the Program. For purposes of this Chapter, the Department receives the request for participation in the Program on the date the application window for the IEA program closes. Qualifying disabilities for eligible students include the following are identified in T.C.A. § 49-10-1402.:

1. ~~Autism;~~

2. ~~Deaf blindness;~~

(Rule 0520-01-11-.02, continued)

- ~~3. Developmental delay;~~
- ~~4. Hearing impairments;~~
- ~~5. Intellectual disability;~~
- ~~6. Multiple disabilities;~~
- ~~7. Orthopedic impairments;~~
- ~~8. Specific learning disability;~~
- ~~9. Traumatic brain injury; or~~
- ~~10. Visual impairments; and~~

(b) Meets at least one (1) of the following requirements:

1. Was previously enrolled in and attended a Tennessee public school for the one (1) full school year immediately preceding the school year in which the student receives an Individualized Education Account (IEA). For the purposes of these rules, one (1) full school year means that the student was counted in the enrollment figures for the LEA(s) for the entire school year as reported in the state's student information system;
2. Has not previously attended a K-12 school in Tennessee, but is currently eligible to enroll in a kindergarten program in a public school in this state. Students meeting this eligibility requirement shall inform the LEA in which they reside of the student's intent to participate in the program prior to July 1 of the year in which they are enrolled in the IEA Program;
3. Has not previously attended a school in Tennessee for the duration of one (1) full school year immediately preceding the school year in which the student receives an IEA, and moved to Tennessee less than one (1) year prior to the date of enrollment in the IEA Program; or
4. Received an IEA in the previous school year.

(12) "Fee-for-Service Transportation Provider" means a commercial transportation provider including a taxi or bus service. It does not include private transportation by a parent or Participating Student in accordance with the conflict of interest provision in these rules.

(13) "Financial Institution" or "Private Financial Management Firm" means an institution selected by the Department to administer the individualized education accounts.

(14) "IEA" means a Tennessee Individualized Education Account.

(15) "Inclusive Educational Setting" means that the Participating School provides a setting that meets the following two (2) criteria:

- (a) Students with disabilities are educated with students who do not have disabilities; and
- (b) No more than fifty percent (50%) of the students in an individual classroom or setting are students with disabilities.

(Rule 0520-01-02-.10, continued)

- (16) "ISP" means an Individualized Service Plan and is a written statement that describes the special education and related services to be provided by an LEA to a student who is eligible under Individuals with Disabilities Education Act at 20 U.S.C. §§ 1400, et seq., but has been enrolled in a non-public school or independent home school by the student's Parent.
- (17) "Local Education Agency (LEA)," "School System," "Public School System," "Local School System," "School District," or "Local School District" means any county school system, city school system, special school district, unified school system, metropolitan school system or any other local public school system or school district created or authorized by the general assembly.
- (18) "Non-public Online Learning Program or Course" means online programs or courses that meet the requirements set by the Department.
- (19) "Parent" means the parent, legal guardian, person who has custody of the child, or person with caregiving authority for the child.
- (20) "Participating School" means a non-public school that meets the requirements established in T.C.A. §§ 49-10-1401, et seq. and seeks to enroll eligible students.
- (21) "Participating Student" means an eligible student whose parent is participating in the IEA Program or an eligible student who has attained the age of majority and is participating in the IEA Program.
- (22) "Physician" means a person licensed under T.C.A. Title 63, Chapter 3, Chapter 4, Chapter 5, Chapter 6, Chapter 7, Chapter 8, Chapter 9, Chapter 10, Chapter 11, Chapter 14, Chapter 16, Chapter 17, Chapter 19, Chapter 22, Chapter 23, Chapter 24, or Chapter 25.
- (23) "Program" means the Individualized Education Account (IEA) Program created in T.C.A. §§ 49-10-1401, et seq.
- (24) "Provider" means an individual or business that meets the requirements set by the State Board of Education and the Tennessee Department of Education.
- (25) "Standard Application Form" means a document whereby an Applicant may seek to establish an Individualized Education Account (IEA).
- (26) "Tutoring Services" means services provided by a tutor who meets the requirements set by the Department.

Authority: T.C.A. §§ 49-1-302 and 49-10-1401, et seq. **Administrative History:** Emergency rules filed October 28, 2016; effective through April 26, 2017. Emergency rules superseded by new rules filed September 2, 2016; effective December 1, 2016. Emergency rules filed September 22, 2017; effective through March 21, 2018. Amendments filed December 21, 2017; effective March 21, 2018. Amendments filed October 25, 2018; effective January 23, 2019. Amendments filed January 22, 2020; to have become effective April 21, 2020. However, the State Board of Education filed a 34-day stay of the effective date of the rules; new effective date May 25, 2020. Amendments filed December 27, 2021; effective March 27, 2022. Amendments filed January 26, 2023; effective April 26, 2023. Amendments filed January 24, 2024; effective April 23, 2024.