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File Date: 8/28/2026

Notice of Rulemaking Hearing

Hearings will be conducted in the manner prescribed by the Uniform Administrative Procedures Act, T.C.A. § 4-5-204. For questions and copies of the notice, contact the person listed below.

Agency/Board/Commission:	State Board of Education
Division:	N/A
Contact Person:	Rachel Suppé
Address:	500 James Robertson Parkway, Nashville, Tennessee
Zip:	37243
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Email:	rachel.suppe@tn.gov

Any Individuals with disabilities who wish to participate in these proceedings (to review these filings) and may require aid to facilitate such participation should contact the following at least 10 days prior to the hearing:

ADA Contact:	Rachel Suppé
Address:	500 James Robertson Parkway, Nashville, Tennessee
Phone:	629-279-7565
Email:	rachel.suppe@tn.gov

Hearing Location(s) (for additional locations, copy and paste table)

Address 1:	500 James Robertson Parkway, Nashville, Tennessee		
Address 2:	Conference Room 1B		
City:	Nashville		
Zip:	37243		
Hearing Date:	10/22/2026		
Hearing Time:	9:00 AM	☒ CST/CDT	☐ EST/EDT

Additional Hearing Information:

****Anyone seeking to participate electronically may access the hearing using the following information:****

URL:

<https://tn.webex.com/tn/j.php?MTID=mc46fab080970f0d96814f79d1430b6cf>

Meeting number: 2317 541 3744

Password: SBERules

Phone: 615-747-4911

Access Code: 2317 541 3744

Please check the State Board's website at <https://www.tn.gov/sbe/meetings.html> for any additional information regarding this rulemaking hearing. Oral comments are invited at the hearing.

In addition, written comments may be submitted by 9:00 a.m. Central Time October 15, 2026, via email at SBE.Public.Comments@tn.gov or mailed to:

Tennessee State Board of Education
500 James Robertson Parkway, Nashville, Tennessee 37243 Attention: Rachel Suppé

Revision Type (check all that apply):

☒ Amendment
☐ New
☐ Repeal

Rule(s) (ALL chapters and rules contained in filing must be listed. If needed, copy and paste additional tables to accommodate more than one chapter. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0520-14-01	Charter Schools
Rule Number	Rule Title
0520-14-01-.03	Allocation of State and Local Funds
0520-14-01-.04	Enrollment
0520-14-01-.05	Annual Authorizer Fee and Annual Reporting
0520-14-01-.06	Amendments to the Charter Agreement

Chapter Number	Chapter Title
0520-01-24	Education Freedom Scholarships
Rule Number	Rule Title
0520-01-24-.02	Definitions
0520-01-24-.03	Prioritization of Awards
0520-01-24-.04	Application
0520-01-24-.05	Application Processing
0520-01-24-.06	Agreement and Funds Transfer
0520-01-24-.07	Use of Funds
0520-01-24-.08	Term of the EFS
0520-01-24-.12	Return to Public School
0520-01-24-.13	Appeal Procedures
0520-01-24-.15	Department Assessment Analysis

Chapter Number	Chapter Title
0520-01-16	Education Savings Accounts
Rule Number	Rule Title
0520-01-16-.02	Definitions
0520-01-16-.03	Application and Admission
0520-01-16-.04	Agreement and Funds Transfer
0520-01-16-.05	Use of Funds
0520-01-16-.06	Term of the ESA
0520-01-16-.07	Monitoring and Compliance
0520-01-16-.08	Participating Schools
0520-01-16-.11	Appeal Procedures
0520-01-16-.13	Department Assessment Analysis

Chapter Number	Chapter Title
0520-01-11	Individualized Education Account
Rule Number	Rule Title
0520-01-11-.02	Definitions
0520-01-11-.03	Application
0520-01-11-.04	Term of the IEA
0520-01-11-.05	Agreement and Funds Transfer
0520-01-11-.06	Account Holder Obligations

Chapter Number	Chapter Title
0520-01-03	Virtual Schools
Rule Number	Rule Title
0520-01-03-.05	Virtual Education

Chapter Number	Chapter Title
0520-01-13	Student Health Services
Rule Number	Rule Title
0520-01-13-.03	Healthcare Procedures in a School Setting

AMENDMENT

Amend State Board of Education Rules 0520-14-01-.03, .04, .05, and .06 so that as amended it shall read:

RULES OF THE STATE BOARD OF EDUCATION

CHAPTER 0520-14-01 CHARTER SCHOOLS

0520-14-01-.03 ALLOCATION OF STATE AND LOCAL FUNDS.

- (1) Public charter school funding shall be governed by the following:
 - (a) For the purpose of implementing this Rule in calculating, allocating, and disbursing public charter school funding pursuant to T.C.A. § 49-13-112(a):
 1. The Department shall be responsible for calculating required funding and reporting the calculations to both authorizers and public charter schools.
 2. The local board of education shall be responsible for allocating the required funding to public charter schools in the local budget. Each authorizer shall include, as part of its budget submitted pursuant to T.C.A. § 49-2-203, the per student amount of local funds it will pass through to public charter schools during the upcoming school year, including all calculations listed in this Rule. The local board of education shall provide all calculations to its authorized charter schools upon request. Allocations to the public charter schools during the budgeted school year shall be based on that figure until such time as updated interim and final allocations are run pursuant to subparagraph (1)(e) below. The authorizer shall distribute local funding in no fewer than nine (9) equal installments to public charter schools in the same manner as state funds are distributed.
 3. The local education agency's (LEA) fiscal agent shall be responsible for the disbursement of required funding to public charter schools.
 4. The LEA shall be responsible for the timely and accurate submission of data and other reporting requirements to the Department.
 5. The public charter school shall be responsible for the timely and accurate submission of data and other reporting requirements to the authorizer.
 6. The authorizer and public charter school shall be responsible for collaborating to resolve any data or reporting discrepancies prior to Department reporting deadlines.
 - (b) Allocations are based on one hundred percent (100%) of state and local funds received by the LEA, including current funds allocated for capital outlay purposes and funds generated under the fast-growth stipends detailed in T.C.A. § 49-3-107, excluding the proceeds of debt obligations and associated debt services.
 - (c) A local board of education shall allocate to each public charter school an amount equal to the state and local funds as calculated in subparagraphs (1)(d) and (1)(e) below for each student member enrolled in a public charter school and all appropriate allocations under federal laws or regulations, including, but not limited to, IDEA and ESEA funds.

1. Pursuant to T.C.A. § 49-13-112(a), federal funds received by the LEA must be disbursed to public charter schools authorized by the LEA by either a joint agreement on shared services by individual public charter schools or sub-grants to public charter schools for the charter's equitable share of the federal grant based on eligible students. The allocation must be made in accordance with the policies and procedures developed by the Department.

(d) Initial Allocations.

1. The initial allocation shall be set forth in the local board of education's budget submitted to the Department pursuant to T.C.A. § 49-3-316 for the upcoming school year and represent the state and local funds to be allocated to each public charter school based on prior year average daily membership (ADM) and student counts, as required by the Tennessee Investment in Student Achievement Act (TISA), before such time as current year data and revenues are available. The Department shall pull this information from state-approved LEA budgets as entered into the state's system of record and include these funds in initial funding estimates shared with authorizing LEAs and public charter schools. If the LEA does not have a fully approved budget in the state's system of record, the Department will use the LEA's budgeted prior year additional local revenues or the district's prior year expenditure report, whichever is more recent, to inform the initial allocations until an LEA budget is fully approved.
2. Pursuant to T.C.A. § 49-13-112(a)(1)(A), the initial allocation from the local board of education to a public charter school shall be based on the total of the state and local student-generated funds for member students in a public charter school during the prior school year for the base funding amount, weighted allocation, and direct funding allocations in accordance with TISA, and any rules promulgated by the Department pursuant to the TISA, including Chapter 0520-12-05.
3. Pursuant to T.C.A. § 49-13-112(a)(1)(B), if the local funds received by the LEA are greater than the local contribution required by TISA as set forth in T.C.A. § 49-3-109, the local board of education shall also allocate the average per pupil local funds received by the LEA in the budgeted school year, in accordance with T.C.A. § 49-3-316, above those required by the TISA for each member student in the public charter school in the prior year. The initial average per pupil local funding amount shall be determined by dividing the budgeted additional local funds by the LEA's prior year ADM, including all member students of public charter schools geographically located within the LEA. The Department shall pull this information from state-approved LEA budgets as entered into the state's system of record and include these funds in initial funding estimates shared with authorizing LEAs and public charter schools. If the LEA does not have a fully approved budget in the state's system of record, the Department will use the LEA's budgeted prior year additional local revenues or the district's prior year expenditure report, whichever is more recent, to inform the initial allocations until an LEA budget is fully approved.
4. Pursuant to T.C.A. § 49-3-105(d)(1)(B), the state share of TISA funding generated by public charter school students shall be allocated to the LEA in which the public charter school is geographically located, but shall be disbursed directly to the public charter school by the Department. If the public charter school is authorized by the Commission, the funds shall be disbursed by the Department directly to the authorizer.
 - (i) A public charter school's total of TISA-generated funds shall be divided between state and local funding responsibilities based on the state and local

share percentages of the LEA in which the public charter school is geographically located. The state share for base and weighted funding is determined separately using the LEA's applicable percentages, which are then applied to the public charter school's calculated base and weighted amounts. The state fully funds direct allocations. As with LEA allocations, funding for postsecondary assessment is withheld at the state level. The local share of base and weighted funding is the responsibility of the LEA in which the public charter school is geographically located and will be disbursed by the LEA to the public charter schools.

- (ii) All federal, state, and local funds generated by or received by an LEA shall be properly accounted for in the LEA's official financial records. Payment of funds to a public charter school by the state on behalf of an LEA shall be recorded in the LEA's financial records in the appropriate revenue and expenditure categories.

(e) Interim Funding Adjustments and Final Allocations.

1. After the initial allocation is made as set forth in subparagraph (1)(d), an authorizer shall adjust payments to its public charter schools on an interim basis during the school year, at a minimum, in October, December, February, April, and June, with final allocations occurring with the completion of the authorizer's final expenditure reports as submitted and approved by the Department. Pursuant to T.C.A. § 49-13-112(a)(1) and § 49-13-112(a)(3), these adjustments shall update allocations to reflect current year data, including changes in revenue, student enrollment, or student services.
2. To calculate interim and final allocations, the Department shall calculate current year ADM on the timeline in part (1)(e)1. above for all LEAs with public charter schools geographically located within the LEA's boundaries. The Department shall publish or otherwise make available to each authorizer and each public charter school the outputs and, if requested, the underlying data from each instance in which the Department runs the ADM calculations for purposes of calculating initial, interim, and final allocations. Authorizers may opt to run the adjustments more frequently in alignment with respective charter agreements.
3. Interim and final allocations to each public charter school shall include:
 - (i) Pursuant to T.C.A. § 49-13-112(a)(1)(A), the interim and final allocations from the local board of education to a public charter school shall be based on the total of the state and local student-generated funds for member students in a public charter school during the prior school year for the base funding amount, weighted allocation, and direct funding allocations in accordance with the TISA, and any rules promulgated by the Department pursuant to the TISA, including Chapter 0520-12-05.
 - (ii) Pursuant to T.C.A. § 49-13-112(a)(1)(B), if the local funds received by the LEA are greater than the local contribution required by TISA as set forth in T.C.A. § 49-3-109, the local board of education shall also allocate the average per pupil local funds received by the LEA in the budgeted school year above those required by the TISA for each member student in the public charter school in the prior year. The interim and final average per pupil local funding amount shall be determined by dividing the additional local funds by the LEA's current year ADM (inclusive of all member students of public charter schools geographically located within the LEA). The final average

per pupil local funding amount is to be determined using the LEA's final expenditure report as submitted to and approved by the Department.

- (iii) Pursuant to T.C.A. § 49-13-112(a)(1)(C) and § 49-13-112(a)(3), a local board of education shall allocate to the public charter school an amount equal to the per student state and local funds received by the LEA for member students in the public charter school in the current school year beyond the prior year's membership. For each required interim and final allocation adjustment, the Department shall calculate the ADMs for each public charter school and the difference from the prior year ADM as used in the base funding calculation in the TISA formula. For any difference in overall ADM counts, the local board of education shall adjust the public charter school's allocation and disbursement by an amount equal to multiplying the average per student state and local funds received by the LEA in the current year by the difference in ADM for each public charter school, which may result in an increase or decrease to the overall allocation and disbursement. The final average per pupil state and local funds shall be determined using the LEA's final expenditure report as submitted to and approved by the Department. In calculating the average per student state and local funds, the total funding will exclude grants awarded on behalf of specific schools and the charter direct funding component of the TISA.
- (iv) In determining final amounts to be paid pursuant to subparts (1)(e)3.(ii) and (1)(e)3.(iii) above, the Department shall report to each authorizer and public charter school the results of LEA's state-approved final expenditure reports within five (5) business days of state approval. LEAs and each public charter school shall process final payments within thirty (30) calendar days of the Department's report on final amounts.

(f) Special Considerations.

1. New and Expanding Public Charter Schools: Notwithstanding part (1)(d)2., for the purpose of initial allocations, new public charter schools or public charter schools adding a new grade(s) shall be funded based on the anticipated enrollment in the charter agreement unless the authorizer and public charter school mutually agree on a projection of enrollment not to exceed any enrollment maximums or caps set forth in the charter agreement. The initial funding allocation for the new grade(s) shall be based on a per-student average of all state and local funds received by the LEA and disbursed to the public charter school by the LEA. Allocations shall be subsequently adjusted in accordance with subparagraph (1)(e).
2. Public Charter School Direct Funding: In accordance with T.C.A. § 49-3-105, the charter school direct funding amount each year is subject to an annual appropriation by the Tennessee General Assembly and is calculated by dividing the amount of the appropriation by the statewide public charter school ADM of the prior year. This direct funding amount shall be fully state funded and not require additional local contribution funds. The public charter school direct funding amount is calculated the same as all other direct funding components of TISA as set forth in T.C.A. § 49-3-105.
3. Fast-Growth Stipends: Subject to annual appropriations by the Tennessee General Assembly and in accordance with T.C.A. § 49-3-107, if an LEA receives a fast-growth stipend or infrastructure stipend, the LEA shall disburse to charter schools geographically located within that LEA a proportional share of funds received. The proportional share shall be equal to the percentage calculated by dividing a public charter school's TISA funding for base funding, weighted

allocations, and direct allocations by the TISA funding for these same components of the LEA as a whole.

4. Educator Salary Increases: Pursuant to T.C.A. § 49-3-105(e), if the Tennessee General Assembly restricts an amount of an annual increase to the TISA base funding amount for the purpose of providing salary increases to existing educators, the Department shall determine the proportional share of funds received by each public charter school driven by the restricted funds and report that amount to each authorizer and to each public charter school. Public charter schools shall use these funds to provide salary increases to existing educators pursuant to T.C.A. § 49-3-105(e).
 5. Cost Differential Factor Grants: Subject to annual appropriations by the Tennessee General Assembly and in accordance with T.C.A. § 49-3-108(d), if an LEA receives a Cost Differential Factor (CDF) grant, the LEA shall disburse to public charter schools geographically located within that LEA a proportional share of the CDF grant. The proportional share shall be equal to the percentage calculated by dividing a public charter school's TISA funding for base funding, weighted allocations, and direct allocations by the TISA funding for these same components of the LEA as a whole.
 6. Outcomes Funding: If a public charter school generates outcome bonus funding as a result of students enrolled in the public charter school in the prior year, the public charter school shall receive the earned amount of outcome bonus funds from the authorizer when such funds are awarded by the Department. The Department shall report the amount of outcome bonus funds due to each public charter school to the authorizer and to each public charter school.
- (g) Pursuant to T.C.A. § 49-13-112, the Commission shall receive funding in alignment with this rule for each public charter school within their respective LEAs from the LEAs in which each public charter school is geographically located.
 - (h) Opportunity Public Charter Schools (OPCS): Pursuant to T.C.A. § 49-13-106(k)(1)(C), TISA state and local funds generated by an at-risk student who transfers to an OPCS located in an LEA other than the LEA in which the at-risk student resides shall follow the at-risk student to the LEA in which the OPCS is located, but only for the first school year in which the at-risk student is enrolled in an OPCS located in an LEA other than the LEA in which the at-risk student resides. For purposes of this Chapter, "at-risk student" is defined by T.C.A. § 49-13-104(3). The LEA in which the OPCS is located shall not charge tuition to such students.
 - (i) Allocations to a public charter school shall not be reduced by the authorizer except for the annual authorizer fee. If the charter agreement includes a provision whereby the authorizer will provide for employee benefits or retirement, the authorizer may withhold funds to cover the costs of those services. Any services the public charter school chooses to purchase from the authorizer may also exist in a separate services contract between the public charter school and the authorizer. However, approval of a separate services contract shall not be a condition of approval of the charter agreement. If a services contract is executed with the authorizer, the authorizer may withhold funds to cover the costs of those services.
 - (j) Pursuant to T.C.A. § 49-13-124, the authorizer may endorse the submission of the qualified zone academy bond application to the local taxing authority. The authorizer may endorse such a bond application submitted by the public charter school governing body, or the authorizer may include the public charter school's project as part of the authorizer's bond application.

- (k) If public charter schools provide school nutrition programs, they may provide their own programs in compliance with United States Department of Agriculture regulations and state law, or they may contract with the authorizer for the provision of school nutrition programs.

Authority: T.C.A. §§ 49-1-302, 49-2-203, 49-3-101, et seq., 49-3-105, 49-3-316, 49-6-2101, et seq., 49-13-112, 49-13-114, 49-13-124, and 49-13-126. Administrative History: Original rule filed March 25, 2010; effective August 29, 2010. Repeal and new rule filed March 21, 2012; effective August 29, 2012. Amendments filed September 22, 2017; effective December 21, 2017. Amendments filed September 29, 2020; effective December 28, 2020. Amendments filed November 30, 2020; effective February 28, 2021. Amendments filed March 8, 2023; effective June 6, 2023. Amendments filed March 12, 2024; effective June 10, 2024. Emergency rules filed January 31, 2025; effective through July 30, 2025. Emergency rules expired effective July 31, 2025, and the rules reverted to their previous statuses. Emergency rule filed August 13, 2025; effective through February 9, 2026. Emergency rule expired effective February 10, 2026, and the rule reverted to its previous status. Amendments filed January 7, 2026; effective April 7, 2026.

0520-14-01-.04 ENROLLMENT.

- (1) Charter schools shall conduct an initial student application period of at least thirty (30) calendar days during which all students may apply.
- (2) A charter school shall not exclude students from enrollment based on race, color, ethnicity, national origin, religion, income level, disability, English language proficiency, or academic ability.
- (3) A charter school may submit a charter school application that seeks to limit enrollment to a single sex, as defined in T.C.A. § 49-2-802, if the enrollment proposal complies with state and federal law.
- (4) A charter school that is an OPCS, as defined in T.C.A. § 49-13-104, with a residential model shall ensure its facilities:
 - (a) Comply with all applicable health and safety laws, regulations, and codes of the city, county, and state;
 - (b) Meet all fire safety regulations and procedures promulgated by the Tennessee Fire Marshal's Office; and
 - (c) Are constructed, remodeled, renovated, expanded, or modified in accordance with any state and federal requirements applicable to the school regarding building accessibility, including, but not limited to, the Americans with Disabilities Act and Section 504 of the Rehabilitation Act of 1973.
- (5) A charter school shall enroll an eligible student who submits an application by the charter school's deadline unless the number of applications exceeds the capacity of a program, class, grade level, or building.
- (6) If, at the end of the initial student application period, the number of eligible students seeking to be enrolled does not exceed the school's capacity or the capacity of a program, class, grade level, or building, the enrollment of eligible students may proceed on a first-come, first-served basis.
- (7) If, at the end of the initial student application period, the number of eligible students seeking to be enrolled exceeds the school's capacity or the capacity of a program, class, grade level, or

building, eligible students shall be enrolled using a lottery in accordance with the requirements at T.C.A. § 49-13-113 and T.C.A. § 49-13-108(i)(2).

- (a) Any such lottery shall be conducted within thirty (30) calendar days of the close of the initial student application period.
 - (b) Students who attended the charter school during the previous school year shall be given first enrollment preference and excluded from entering into a lottery. Students who attended the charter school during the previous school year shall not be required to reapply.
 - (c) Students enrolling in a charter school from another charter school, even if both schools share a governing body, shall be subject to the lottery preferences outlined in the enrolling school's lottery policy.
 - (d) If an enrollment lottery is conducted for an OPCS, the school shall give enrollment preferences to students identified as at-risk, as defined in T.C.A. § 49-13-104(3). If an OPCS has additional capacity after the number of eligible at-risk students seeking to be enrolled have been accepted, the OPCS shall give enrollment preferences in accordance with its lottery policy and T.C.A. § 49-13-113(d)(4).
- (8) A non-charter public school converting to a charter school under T.C.A. § 49-13-106 (conversion charter school) shall give enrollment preference to students who reside within the former school zone of the conversion charter school, subject to the exception at subparagraph (10)(a). Students enrolled in the existing non-charter public school to be converted shall have the option to enroll in another public school operated by the LEA in which the charter school is located without penalty. The enrollment preference for students who reside within the former school zone of the conversion charter school excludes those students from entering into a lottery.
- (a) A non-charter public school converting to an OPCS shall not give an enrollment preference to students who reside within the former school zone of the conversion charter school unless the student is an at-risk student as defined in T.C.A. § 49-13-104(3).
- (9) Students living in other school zones may enroll in a conversion charter school after those living in the school zone have the opportunity to enroll, but only if there is program, class, grade level, and building capacity to serve the out-of-zone students. If applications by out-of-zone students exceed the charter school's capacity, enrollment of out-of-zone students shall be determined on the basis of a lottery. Out-of-zone students who attended the school the previous school year, and such students' siblings, may be given preference in enrollment.
- (10) A charter school may refuse to admit any student who is expelled from another public school or district or who is in the process of being expelled from another public school or district.
- (11) Additional verification requirements for enrollment in an OPCS:
- (a) To qualify as at-risk, a student shall only be required to meet the income requirement and one (1) at-risk eligibility criterion listed in T.C.A. § 49-13-104(3)(a)-(h).
 - (b) As part of the enrollment process, the parent or guardian of an enrolling student or an enrolling student who has reached the age of eighteen (18) shall provide verification of meeting the at-risk criteria, as defined in T.C.A. § 49-13-104(3).

- (c) Verification for at-risk criteria shall be established through the completion of the appropriate documentation as required in State Board Opportunity Public Charter School Policy 6.114.
- (d) Whether a student qualifies as at-risk shall be determined by the OPCS only at the time of enrollment. If a student has withdrawn from the OPCS and subsequently re-enrolls, the OPCS shall verify at-risk eligibility at the time of re-enrollment.

(12) Reporting requirements:

- (a) A charter school shall provide to the Department certification by an independent accounting firm or by a law firm that each lottery conducted for enrollment purposes complied with the requirements of T.C.A. § 49-13-113. Charter schools that choose to participate in the enrollment process of their authorizer may use certification from the authorizer to satisfy this requirement.
- (b) In lieu of an independent accounting firm or law firm, charter schools may request that the Department review and approve the lottery process prior to conducting the lottery.
- (c) By June 30th of each year, an OPCS shall submit to its authorizer a signed, written verification from an independent accounting firm or law firm stating whether the school met or exceeded an overall average of seventy-five percent (75%) at-risk student enrollment in the immediately preceding school year.
 - 1. The authorizer shall include the results of this annual verification in its authorizer report.
 - 2. If an OPCS fails to meet the seventy-five percent (75%) at-risk student enrollment requirement for three (3) consecutive school years, the school shall petition the authorizer to amend its charter agreement to convert to a public charter school and forgo its OPCS status, or voluntarily close.
 - (i) If an OPCS seeks to amend its charter agreement, it shall petition its authorizer by the fall amendment petition deadline immediately following the third (3rd) consecutive year in which the school failed to meet the at-risk enrollment requirement and shall follow the amendment petition process outlined in the Commission's rules, including the right to an appeal.
 - (ii) If an OPCS chooses to voluntarily close, the school shall notify its authorizer of its decision by October 1 immediately following the third (3rd) consecutive year in which the school failed to meet the seventy-five (75%) enrollment requirement, and the school shall close by the end of that school year.
 - 3. An OPCS shall retain documentation evidencing that at-risk students met the at-risk eligibility criteria at the time of the student's enrollment, or any re-enrollment, in the OPCS.

Authority: T.C.A. §§ 49-13-104, 49-13-108, 49-13-113, and 49-13-126. Administrative History: Original rule filed March 25, 2010; effective August 29, 2010. Repeal and new rule filed March 21, 2012; effective August 29, 2012. Amendments filed January 10, 2018; effective April 10, 2018. Amendments filed August 29, 2018; effective November 27, 2018. Amendments filed September 29, 2020; effective December 28, 2020. Amendments filed November 30, 2020; effective February 28, 2021. Amendments filed March 12, 2024; effective June 10, 2024. Emergency rules filed January 31, 2025; effective through July 30, 2025. Emergency rules expired effective July 31, 2025, and the rules reverted to their previous statuses. Amendments filed May 23, 2025; effective August 21, 2025. Amendments filed January 7, 2026; effective April 7, 2026.

0520-14-01-.05 ANNUAL AUTHORIZER FEE AND ANNUAL REPORTING.

- (1) Requirements applicable to local boards of education that serve as an authorizer of a charter school(s) (i.e., district authorizers):
 - (a) Pursuant to T.C.A. § 49-13-128, district authorizers shall receive an annual authorizer fee that is a percentage of the charter school's per student state and local funding as allocated under T.C.A. § 49-13-112. The annual authorizer fee shall be the lesser of three percent (3%) of the annual per-student state and local allocations or \$35,000 per school.
 - (b) District authorizers shall use the annual authorizer fee exclusively for fulfilling the following authorizing obligations:
 1. Charter school application approval process, including:
 - (i) Implementation of State Board-approved quality authorizing standards; and
 - (ii) Stipends or travel for external reviewers.
 2. Interim review process required by T.C.A. § 49-13-121(k), including review of the progress of the school in achieving the goals, objectives, pupil performance standards, content standards, and other terms of the approved charter agreement.
 3. Charter school renewal process required by T.C.A. § 49-13-121, including:
 - (i) Review of the renewal application;
 - (ii) Stipends or travel for external reviewers; and
 - (iii) Development of the renewal evaluation required to be submitted to each charter school.
 4. Monitoring and oversight activities, including:
 - (i) Development of a performance framework;
 - (ii) Annual monitoring visits;
 - (iii) Data meetings;
 - (iv) Any software or data management tools required by the district authorizer exclusively for charter schools;
 - (v) Monitoring of all legal requirements; and
 - (vi) School closure responsibilities outlined in T.C.A. § 49-13-130.
 5. Personnel costs for staff supporting charter schools, including:
 - (i) Salaries and benefits for full-time or part-time personnel with exclusive charter school responsibilities;
 - (ii) Salaries for personnel who spend a portion of their time on direct charter school responsibilities. Any funds spent on salaries must be pro-rated to reflect the amount of time spent only on charter support work. Salaries for

personnel may only be paid for with authorizer fee funds if the activities and duties of the personnel are beyond the scope and capacity of the LEA charter school office or personnel;

- (iii) External consultants or other consultancy or legal fees to support charter authorizing obligations; and
 - (iv) Reasonable costs associated with recruiting or hiring charter support or authorizing staff.
 - 6. Operational expenses for staff supporting charter schools.
 - 7. Annual reporting, including:
 - (i) Reporting of vacant and underutilized properties owned or operated by the LEA pursuant to T.C.A. § 49-13-136 and paragraph (4) of this Rule;
 - (ii) Creation of the authorizer fee report required by T.C.A. § 49-13-128(f); and
 - (iii) Reporting of student directory information required by T.C.A. § 49-13-132.
 - (iv) Reporting of Opportunity Public Charter School information required by T.C.A. § 49-13-133.
 - 8. Ongoing charter school support services, including:
 - (i) Interventions or authorizer-led supports;
 - (ii) Maintenance of facilities or other capital outlay obligations that are not otherwise outlined in a lease agreement between the authorizer and charter school;
 - (iii) Professional development, orientation, or onboarding of charter school employees or staff supporting charter schools; and
 - (iv) Contract services for specialized or targeted charter school supports.
- (2) Requirements applicable only to the Commission:
- (a) If the Commission authorizes a public charter school, the Commission shall receive an annual authorizer fee in accordance with § 49-13-128(e). By May 1 of each year, the Commission or the Commission's designee shall set the percentage of a public charter school's per student state and local funding that the Commission shall receive as the annual authorizer fee for the next school year.
 - (b) The Commission shall use the annual authorizer fee for fulfilling authorizing obligations set forth in subparagraph (1)(b) of this Rule. Additionally, the Commission may use the annual authorizer fee to fulfill obligations consistent with the authority of the Commission as set forth in Tennessee Code Annotated Title 49, Chapter 13.
- (3) Requirements applicable to all authorizers:
- (a) The authorizer fee shall be paid by a charter school to its authorizer in accordance with the payment process issued by the Department of Education.

- (b) The annual authorizer fee collected by an authorizer shall be recorded in the general ledger using the appropriate revenue code as determined by the Tennessee Comptroller and shall be subject to all audit and reporting requirements.
 - (c) By December 1 of each year, each authorizer that collects an annual authorizer fee shall report to the State Board the total amount of authorizer fees collected in the previous school year and the authorizing obligations fulfilled using the fee. Reports shall be submitted on a reporting form developed by the State Board.
 - (d) Each authorizer fee report shall be posted on the authorizer's website and the State Board's website.
 - (e) If, for any school year, the total amount of authorizer fees collected by the authorizer exceeds the amount used by the authorizer to perform its authorizing obligations and responsibilities, the authorizer shall distribute the amount remaining to its authorized public charter schools.
 - (f) Any excess funds collected by an authorizer shall be distributed to its authorized charter schools in the school year immediately following the school year in which the excess fees were collected by the authorizer and in accordance with the process established by the Department of Education.
 - (g) If the State Board determines funds were used by the authorizer for activities other than the authorizing obligations outlined in this Rule, the State Board shall direct the Department of Education to withhold an amount equal to the misallocated funds in the following school year from the authorizer and shall distribute the misallocated funds directly to the authorizer's charter schools.
 - (h) If an authorizer does not receive timely payment from an authorized charter school in accordance with this Rule, the authorizer shall be entitled to any past due amount from the authorized charter school in accordance with the payment process issued by the Department of Education.
 - (i) Each charter school shall receive a proportionate share of any excess or misallocated funds collected by the authorizer based on the actual amount of authorizer fee funds paid to the authorizer by each charter school.
 - (j) Authorizers shall annually provide a projected charter school office budget for the upcoming school year to the State Board by August 1. The State Board shall annually post each projected budget to its website by August 15.
- (4) Requirements applicable to LEAs in which one (1) or more public charter schools operate:
- (a) Annually by May 1, the LEA shall publish the information required in T.C.A. § 49-13-136(c)(1) on the LEA's website and submit a comprehensive listing of all vacant or underutilized property to the Department and the Comptroller of the Treasury.
 - 1. Vacant property, as defined in T.C.A. § 49-13-104, means a building, with or without improvements, which is closed or no longer used for direct academic instruction for students in pre-kindergarten through grade twelve (pre-K-12), or any combination thereof, including, but not limited to, spaces suitable for classroom use that are currently being used for storage of any kind and does not include real property on which a building or permanent structure has not been erected.
 - 2. Underutilized property, as defined in T.C.A. § 49-13-104, means a building or portion thereof, with or without improvements, which is not used or is used

irregularly or intermittently for K-12 instructional or program purposes, including, but not limited to, spaces suitable for classroom use that are currently being used for storage of any kind. K-12 instructional purposes include spaces used for providing direct instruction to students. K-12 program purposes include spaces used in support of K-12 instructional programming, such as faculty professional development, employee offices, and other similar uses but do not include spaces suitable for classroom use that are currently being used for storage of any kind. For public school facilities that, by their nature, are characterized by irregular or intermittent use, such as auditoriums, gymnasiums, cafeterias, and athletic facilities, irregular or intermittent use means the facility is used for K-12 instructional or programming purposes less than ten (10) times per school year. For all other public school facilities, irregular or intermittent use means the facility is used for K-12 instructional or programming purposes fewer than ninety (90) days per school year or the facility is used at less than 55% capacity, to be calculated in accordance with the Department's guidance and reporting template.

- (5) Requirements applicable to LEAs in which one (1) or more opportunity public charter schools operate:
 - (a) Annually by December 15, each authorizer of an OPCS shall report the opportunity public charter school data for the immediately preceding school year outlined in T.C.A. § 49-13-133(f) to the department using the department's OPCS reporting template.

Authority: T.C.A. §§ 49-1-302, 49-13-112, 49-13-126, and 49-13-128. Administrative History: Original rule filed January 11, 2019; effective April 11, 2019. Amendments filed May 27, 2021; effective August 25, 2021. Amendments filed January 31, 2025; effective May 1, 2025. Amendments filed January 7, 2026; effective April 7, 2026.

0520-14-01-.06 AMENDMENTS TO THE CHARTER AGREEMENT.

- (1) Charter Amendments.
 - (a) An authorizer's approval of a public charter school ("charter school") application shall be in the form of a written charter agreement, signed by the sponsor and the authorizer, which shall be binding upon the governing body of the charter school. The charter agreement for a charter school shall be in writing and contain all material components of the approved application. The governing body of the charter school may petition the authorizer to amend the charter agreement.
 - (b) An amendment to the charter agreement shall be required for any material modification to the provisions of a charter school's charter agreement.
 - (c) A material modification to a charter agreement is defined as a substantive change to the terms of the charter agreement regarding a charter school's governance, financial, operational, or academic structure. Material modifications include, but are not limited to:
 - 1. Changes in the school's governance structure (including, but not limited to, a change in the non-profit entity governing the school), and/or addition of or changes to or assignment of a charter management organization;
 - 2. The addition or removal of a grade level or levels;

3. Changes in student enrollment which fall outside of the minimum or maximum enrollment thresholds set forth in the charter school's charter agreement;
 4. The addition or removal of a plan to provide transportation to students attending the charter school;
 5. Changes to the charter school's location, if outside the geographic area set forth in the charter agreement;
 6. Changes to the charter school's academic focus set forth in the charter agreement; and
 7. Changes identified in the charter agreement as material modifications or amendments.
- (d) The governing body of the charter school applying for a material modification to the charter agreement shall complete and submit to its authorizer the amendment petition application (the "amendment application") created and published by the State Board of Education, in consultation with the Commission.
- (e) The governing body of a charter school seeking to apply for a material modification to the charter agreement shall file an amendment petition letter of intent with the authorizer and the Commission by one (1) of two (2) deadlines stated below:
1. Fall Deadline. The governing body of the charter school may file an amendment petition letter of intent with the authorizer and the Commission by September 1 of the school year preceding the school year in which the proposed amendment will take effect for any material modification. If the due date falls on a Saturday, Sunday or state-observed holiday, the letter of intent shall be due on the next business day.
 2. Spring Deadline. The governing body of the charter school may file an amendment petition letter of intent with the authorizer and the Commission by January 15 of the school year preceding the school year in which the proposed amendment will take effect for any material modification outlined in paragraph (c) except items contained in paragraphs (c)2. or (c)3. If the due date falls on a Saturday, Sunday or state-observed holiday, the letter of intent shall be due on the next business day.
- (f) The governing body of a charter school shall file an amendment application in accordance with the following deadlines:
1. Fall Deadline. The governing body of a charter school that submits its letter of intent in accordance with paragraph (e)1. shall file an amendment application with the authorizer by October 1. If the due date falls on a Saturday, Sunday or state-observed holiday, the amendment application shall be due on the next business day.
 2. Spring Deadline. The governing body of a charter school that submits its letter of intent in accordance with paragraph (e)2. shall file an amendment application with the authorizer by February 14. If the due date falls on a Saturday, Sunday or state-observed holiday, the amendment application shall be due on the next business day.

- (g) The authorizer shall report each amendment petition application received by the authorizer to the Commission no later than ten (10) days from the date on which the authorizer received the amendment petition application.
- (h) The authorizer shall review and score all complete and timely amendment applications using a scoring rubric created and published by the State Board of Education, in consultation with the Commission.
 - 1. An amendment application shall be considered complete if the following are received by the authorizer by the applicable deadline in paragraph (f) using the State Board's current amendment application form:
 - (i) The amendment application cover sheet;
 - (ii) Parts I and II of the amendment application, as applicable; and
 - (iii) All required attachments.
- (i) The authorizer shall rule by resolution, at a regular or special called meeting, on the approval or denial of an amendment application within sixty (60) calendar days of the application due date. Amendment applications may be submitted prior to the due date; however, all complete and timely amendment applications shall be reviewed and acted upon within sixty (60) calendar days following the applicable due date.
- (j) Should the authorizer fail to either approve or deny a complete and timely amendment application within the sixty (60) calendar day time limit, the amendment application shall be deemed approved.
- (k) If an amendment application is deemed approved, such amendment shall not alter the term of the charter agreement. The charter school shall still be required to submit a renewal application pursuant to T.C.A. § 49-13-121 to continue to operate beyond the current charter term.
 - 1. If the governing body of a charter school seeks to apply for a material modification to the charter agreement at the time of renewal, the governing body may do so as part of the renewal process using the required amendment application and following the renewal timelines defined in T.C.A. § 49-13-121.
 - 2. Any amendment application submitted during the renewal process shall be considered by the authorizer separate from the renewal and shall not be a reason for approval or denial of the renewal application.
- (l) If an amendment application is denied, the grounds upon which the authorizer based the decision to deny must be stated in writing, specifying the reasons for the denial, and shall be provided to the governing body of the charter school within five (5) calendar days of the date of the decision to deny. Authorizers shall also provide notice to the Commission of the amendment application decision within five (5) calendar days of the date of the decision to deny.
- (m) An emergency amendment petition application ("emergency amendment application") and rubric shall be created and published by the State Board of Education, in consultation with the Commission.

- (n) If the governing body of a charter school determines that, due to unanticipated extraordinary circumstances, good cause exists for the emergency amendment application to be submitted, it shall make a finding by resolution at a regular or special called meeting of the governing body. An emergency amendment application may be submitted to the authorizer at any time.
1. In order for an emergency amendment application to be complete, the governing body of the charter school shall submit the required components stated in paragraph (1)(h)(1) and include with the emergency amendment application detailed written findings explaining the unanticipated extraordinary circumstances giving rise to the emergency amendment application.
 2. The authorizer shall rule by resolution, at a regular or special-called meeting, on the approval or denial of an emergency amendment application within sixty (60) calendar days of the date the completed emergency amendment application was submitted to the authorizer.
 3. Should the authorizer fail to either approve or deny a complete emergency amendment application within the sixty (60) calendar day time limit, the emergency amendment application shall be deemed approved.
 4. If an emergency amendment application is denied, the grounds upon which the authorizer based the decision to deny must be stated in writing, specifying the reasons for the denial, and shall be provided to the governing body of the charter school within five (5) calendar days of the date of the decision to deny.

Authority: T.C.A. § 49-13-110(b). Administrative History: Emergency rule filed June 27, 2019; effective through December 24, 2019. Emergency rule expired effective December 25, 2019. Original rule filed January 31, 2020; effective April 30, 2020. Amendments filed April 13, 2021; effective July 12, 2021. Repeal filed December 2, 2021; effective March 2, 2022.

AMENDMENT

Amend State Board of Education Rules 0520-01-24-.02 through .08, .12, .13, and .15 so that as amended it shall read:

RULES OF THE STATE BOARD OF EDUCATION

CHAPTER 0520-01-24 EDUCATION FREEDOM SCHOLARSHIPS

0520-01-24-.02 DEFINITIONS.

- (1) "Account Holder" means a Parent or an Eligible Student who has reached the age of eighteen (18), who signs the EFS Agreement, and is responsible for complying with all the requirements of the Program.
- (2) "Agreement" means a document developed by the Department and signed by a Parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18) that qualifies the Parent or Eligible Student who has reached the age of eighteen (18) to participate in the Program.
- (3) "Completed Application" means an application for an EFS submitted to the Department during an open application window set by the Department that contains a response to every required field and includes all required components pursuant to section 0520-01-24-.04 of this chapter, such that the application can be determined as Conditionally Approved, Eligible, or Denied. Required components include:
 - (a) Proof of Tennessee residency;
 - (b) Proof of United States citizenship or Lawful Presence; and
 - (c) Proof of meeting any additional criteria to be determined eligible for an EFS under section 0520-01-24-.03 of this chapter, if applicable.
- (4) "Conditionally Approved Application" means a Completed Application that demonstrates that the student is eligible to be awarded an EFS, pending completion of all Program enrollment requirements, including proof of enrollment in a Private School, as set forth by the Department.
- (5) "Denied Application" means a Completed Application for an EFS that is submitted to the Department during an open application window set by the Department that demonstrates that the student is not eligible for an EFS.
- (6) "Department" means the Tennessee Department of Education.
- (7) "Educational Therapy Services" means individualized services provided by therapists that meet the requirements established by the Department and the State Board.
- (8) "EFS" means an Education Freedom Scholarship(s) as established by T.C.A. § 49-6-3501, et seq.
- (9) "Eligible Student" means a resident of this state who is entitled to attend a Public School, except for a student enrolled in a home school, as defined in T.C.A. § 49-6-3050, or in a church-related school, as defined in T.C.A. § 49-50-801, with which the student's Parent is associated, is

registered, or is participating as a parent-teacher for the purposes of T.C.A. § 49-6-3050(a)(2) or (a)(3).

- (a) For purposes of this definition, “entitled to attend” and “enrolled” shall reference the academic year for which the EFS would be used.
- (10) “Eligible Application” means a Completed Application that demonstrates that the student is eligible for an EFS. The student may receive an EFS, based on available funding, the prioritization of awards established in T.C.A. § 49-6-3504, and the date and time the application was submitted.
- (11) “Expired Application” means an application for an EFS that is no longer eligible for consideration, approval, or funding for the application period at the applicant’s request or due to failure to satisfy program requirements or deadlines established by the Department, including, but not limited to, failing to complete the application process, provide required information, confirm enrollment in a Private School, or respond to requests for corrections.
- (12) “Incomplete Application” means an application for an EFS that is submitted to the Department during an open application window set by the Department that does not contain a response to every required field or does not include all required components pursuant to section 0520-01-24-.04 of this chapter, such that it fails to demonstrate that the student is eligible for an EFS.
- (13) “IEP” means an Individualized Education Program developed by a Public School pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400, et seq.
- (14) “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 the Individuals with Disabilities Education Act, 20 U.S.C. §§ 1400, et seq., but who has been enrolled in a non-public school by the student’s Parent.
- (15) “Lawful Presence” means only the following categories of non-citizens who are eligible for local or state public benefits pursuant to T.C.A. §§ 4-58-101 et. seq., 8 U.S.C. § 1621(a), and 8 U.S.C. § 1641(b):
 - (a) Legal Permanent Residents admitted into the United States under 8 U.S.C. §§ 1101 et seq.;
 - (b) Refugees admitted into the United States under 8 U.S.C. § 1157;
 - (c) Asylees granted asylum under 8 U.S.C. § 1158;
 - (d) Non-citizens paroled in the U.S. under Section 212(d)(5) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1182(d)(5), for a period of at least one year;
 - (e) Non-citizens whose deportation is withheld under the INA, 8 U.S.C. § 1253 or 8 U.S.C. § 1231(b)(3), as amended;
 - (f) Battered immigrants and children who meet the conditions set forth 8 U.S.C. § 1641(c);
 - (g) Cuban or Haitian entrants as defined in Section 501(e) of the Refugee Education Assistance Act of 1980;
 - (h) Victims of a severe form of trafficking who have been granted nonimmigrant status under 8 U.S.C. § 1101(a)(15)(T) or who have a pending application that sets forth a prima facie case for such nonimmigrant status;

- (i) Non-citizens who lawfully reside in the U.S. in accordance with the Compacts of Free Association (COFA) between the Government of the United States and the Governments of the Federated States of Micronesia, the Republic of the Marshall Islands, and the Republic of Palau; and
 - (j) Cuban or Haitian parolees admitted under Section 212(d)(5)(A) of the INA.
- (16) "LEA" means local education agency.
- (17) "Parent" means the parent, legal guardian, person who has custody of the child, or person with caregiving authority for the child under T.C.A. § 49-6-3001.
- (18) "Private School" means a Category I, II, or III non-public school, as set forth in State Board of Education Rule 0520-07-02, that:
- (a) Has a physical location owned or leased by the non-public school located in the state of Tennessee, where students may receive educational services and testing; and
 - (b) Registers with the Department to receive funds from the Program.
- (19) "Program" means the EFS Program as established by T.C.A. §§ 49-6-3501, et seq.
- (20) "Public School" means a public charter school, a school operated by an LEA, or a school operated by the state with public funds that serves students in any of the grades Kindergarten through twelve (K-12).
- (21) "Recipient" means an Eligible Student who enrolls in any of the grades kindergarten through twelve (K-12) at a Private School and receives an EFS for a given school year.
- (22) "Service Provider" means an individual or business that provides educational services in accordance with T.C.A. §§ 49-6-3501, et seq. and meets the requirements established by the Department and the State Board.
- (23) "State Board" means the Tennessee State Board of Education.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.03 PRIORITIZATION OF AWARDS.

- (1) The Department shall award scholarships in the following order:
 - (a) A Recipient in the immediately preceding year who has an EFS at the time of application submission;
 - (b) An eligible student whose annual household income does not exceed one hundred percent (100%) of the amount required for the student to qualify for free or reduced-price lunch, as provided in the income eligibility guidelines published by the United States department of agriculture's food and nutrition service, or an eligible student who is an eligible student as defined in § 49-6-2602 or § 49-10-1402, in the order in which the department receives completed scholarship applications;

- (c) An eligible student whose annual household income does not exceed three hundred percent (300%) of the amount required for the student to qualify for free or reduced-price lunch, as provided in the income eligibility guidelines published by the United States department of agriculture's food and nutrition service, in the order in which the department receives completed scholarship applications;
 - (d) An eligible student whose annual household income exceeds three hundred percent (300%) of the amount required for the student to qualify for free or reduced-price lunch, as provided in the income eligibility guidelines published by the United States department of agriculture's food and nutrition service who, and at the time of submitting a completed scholarship application, is currently enrolled in a public school or is eligible to enroll in kindergarten in a public school for the respective school year, in the order in which the department receives completed scholarship applications; and
 - (e) An eligible student whose annual household income exceeds three hundred percent (300%) of the amount required for the student to qualify for free or reduced-price lunch, as provided in the income eligibility guidelines published by the United States department of agriculture's food and nutrition service, or an eligible student, in the order in which the department receives completed scholarship applications.
- (2) The Department may award an EFS to an Eligible Student in an order that does not comply with the order prescribed in this section, as applicable, if awarding the EFS out of order is consistent with the outcome of an administrative appeal adjudicating the denial of the Eligible Student's EFS application.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. and Public Chapter 963 of 2026. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.04 APPLICATION.

- (1) To apply to receive an EFS, the applicant shall submit a Completed Application using an application developed by the Department.
- (2) As part of the application process, the applicant shall provide documentation that confirms the student's residence in this state and Lawful Presence or citizenship in the United States.
 - (a) Tennessee residency shall be demonstrated through the presentation of two (2) forms of documentation as detailed in Department guidance.
 - (b) Lawful Presence in the United States shall be established in accordance with T.C.A. § 4-58-103(d).
 - (c) United States citizenship shall be demonstrated in accordance with T.C.A. § 4-58-103(c).
- (3) To be considered for an EFS, based on income, pursuant to section 0520-01-24-.03 of this chapter, the applicant shall provide, as part of the Program application process, verification that the student is a member of a household with an annual income that does not exceed the income threshold outlined in sections 0520-01-24-.03(1)(b), (c), or (d) of this chapter, based on the federal income eligibility guidelines for free or reduced-price lunch.
 - (a) Income verification shall be established through the requirements of subparts 0520-01-24-.04(3)(a)1., 2., or 3.:

1. Form 1040 U.S. Individual Income Tax Return ("Form 1040 Tax Return") from the most recent year that was filed by the Parent and which lists the Eligible Student as a dependent or was filed by an Eligible Student who has reached the age of eighteen (18) and who is not listed as a dependent on another individual's Form 1040 Tax Return.
 - (i) If the Eligible Student is not listed on the Form 1040 Tax Return, additional documentation, as outlined in Department guidance, shall be submitted to establish that the student is a member of the same household as the Parent whose Form 1040 Tax Return is provided.
2. Form 1040 Tax Returns of both Parents of an Eligible Student shall be included with an application if either of the following applies:
 - (i) Parents of the Eligible Student share joint primary residential custody such that neither or both are designated as the primary residential parent in a custody order pursuant to T.C.A. § 36-6-410; or
 - (ii) Parents of the Eligible Student share a household but file taxes as married, filing separately, or as head of household.
3. Proof of family eligibility for enrollment in the state's Temporary Assistance for Needy Families ("TANF") program or Supplemental Nutrition Assistance Program ("SNAP").
 - (b) The Department may require additional documentation as needed to determine income eligibility.
- (4) To be considered for an EFS pursuant to subpart 0520-01-24.03(1)(b) of this chapter, as an eligible student as defined in § 49-6-2602 or § 49-10-1402, the applicant shall provide sufficient documentation to meet eligibility criteria pursuant to State Board Rules 0520-01-11 or 0520-01-16, respectively.
- (5) Once the Department notifies an applicant that his or her Completed Application has become a Conditionally Approved Application, the Parent or an Eligible Student who has reached the age of eighteen (18) shall complete the enrollment process set forth by the Department on a timeline established by the Department. The enrollment process includes providing proof of enrollment in a Private School. If the enrollment process is not fully completed by the deadline set by the Department, the Eligible Student shall not be enrolled in the Program during the school year for which the applicant applied to participate in the Program, and the Conditionally Approved Application will become an Expired Application.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.05 APPLICATION PROCESSING.

- (1) The Department shall review and process Completed Applications based on the prioritization of awards established in T.C.A. § 49-6-3504, in the order in which they are received.
- (2) Each submitted application shall be: a Conditionally Approved Application, a Denied Application, an Eligible Application, an Incomplete Application, or an Expired Application.

- (3) A Denied Application may be appealed pursuant to Rule 0520-01-24-.13.
- (4) A determination that a submitted application is an Incomplete Application or an Expired Application may not be appealed.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.06 AGREEMENT AND FUNDS TRANSFER.

- (1) Upon notification by the Department that an EFS has been authorized and may be established, a Parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18) shall become an Account Holder only after signing an Agreement to:
 - (a) Ensure the provision of an education for the Recipient that satisfies the compulsory school attendance requirement provided in T.C.A. § 49-6-3001(c)(1) through enrollment in a Private School;
 - (b) Comply with the requirement established in T.C.A. § 49-6-3507, that Recipients in grades three through eleven (3-11) participate in a nationally standardized achievement test that is aligned to the respective Private School's instructional program as determined by State Board Rule 0520-07-02 or the Tennessee Comprehensive Assessment Program ("TCAP") tests in math and English language arts for the grade in which the Recipient is enrolled, or successor tests approved by the State Board, for each year of enrollment in the Program;
 - (c) Not enroll the Recipient in a Public School during the time the Recipient is enrolled in the Program;
 - (d) Not enroll the Recipient in the ESA program or the IEA program during the time that the Recipient is enrolled in the Program;
 - (e) Release the LEA in which the Recipient resides and the Public School for which the Recipient is zoned to attend from all obligations to educate the Recipient during the time the Recipient is enrolled in the Program;
 - (f) Acknowledge that the Recipient does not retain the right to receive special education and related services from the LEA in which the Recipient resides through an IEP and that Recipients have the same rights under the Individuals with Disabilities Education Act ("IDEA"), 20 U.S.C. § 1414, to receive equitable services through an ISP as all other students enrolled in non-public schools;
 - (g) Acknowledge that Recipients with an ISP are entitled to receive some special education and related services and not all of the services that are required for a Recipient with an IEP to receive a FAPE (Recipients using EFS funds who previously held IEPs may engage with the LEA to develop an ISP through the consultation process, as defined in 34 C.F.R. §§ 300.134 and 300.137);
 - (h) Acknowledge that the Private School is only required to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 if the Private School receives federal funding;
 - (i) Be responsible for any educational expenses in excess of the awarded EFS amount;

- (j) Comply with the acceptable uses of EFS funds and the responsibilities of the Account Holder; and
 - (k) Not use EFS funds for Service Providers who are family or household members of the Recipient, as described in section 0520-01-24-.14 of this chapter.
- (2) The Agreement and any additional information or documentation required by the Department shall be submitted to and received by the Department by the deadlines set by the Department before the first EFS payment is disbursed. If the Agreement and any additional information or documentation required by the Department are not submitted and received by the deadlines set by the Department, the Eligible Student shall not be enrolled in the Program during the school year for which the applicant applied to participate in the Program.
 - (3) The Department shall establish procedures to effectuate the EFS funds transfer process and dates on which each EFS payment shall be disbursed.
 - (4) Prior to becoming a Recipient, the student shall be fully verified by a Private School for enrollment in the respective school year.
 - (5) EFS funds shall not be used for tuition at any non-public school other than a Private School as defined in section 0520-01-24-.02(16) of this chapter.
 - (6) No EFS funds shall be paid directly to a Recipient or to an Account Holder.
 - (7) The EFS funds constitute a public benefit and are not income taxable to the Account Holder, Parent, or Recipient.
 - (8) In accordance with the procedures set by the Department, the Department may remove any Account Holder from participating in the Program if the Account Holder fails to comply with the terms of the Agreement or applicable laws, rules, or procedures, including if the Account Holder misuses funds.
 - (9) If the Department determines that EFS funds have been misused, the Department shall notify the Account Holder, and the Account Holder shall repay the amount of misused funds in the manner and within the timeframe set by the Department. Additionally, the Department is authorized to freeze or withdraw funding directly from the Recipient's EFS for reasons including, but not limited to, fraud; misuse of funds; failure by the Account Holder to comply with state laws, rules, procedures, or the Agreement; or the Recipient's return to a Public School.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.07 USE OF FUNDS.

- (1) All EFS funds shall first be used to pay the Recipient's tuition and fees at the Private School in which the Recipient is enrolled. Any remaining EFS funds available to the Recipient after payment of tuition and fees may only be used for one (1) or more of the following educational expenses:
 - (a) Textbooks, curricula, instructional materials, and uniforms required by the Private School in which the Recipient is enrolled;
 - (b) Tutoring services approved by the Department and provided by:

1. An individual tutor, including, but not limited to, a licensed Tennessee educator; or
 2. A tutoring facility accredited by one (1) or more of the following: any accreditation division of AdvancED, the North Central Association Commission on Accreditation and School Improvement ("NCA CASI"), the Northwest Accreditation Commission ("NWAC"), 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");
- (c) Fees for transportation to and from the Private School in which the Recipient is enrolled, paid to a commercial fee-for-service transportation provider, including, but not limited to, a school bus service that meets the requirements established by the Department;
 - (d) Computer hardware, technological devices, or other technology fees approved by the Department, if the computer hardware, technological device, or technology fee charged by the Private School or Service Provider is used for the Recipient's educational needs;
 - (e) Tuition, fees, textbooks, curricula, and instructional materials for summer academic programs and specialized afterschool academic programs, operated outside the regular school day or school year, as approved by the Department, which do not include afterschool childcare;
 - (f) Fees for early postsecondary opportunity courses and related examinations that give Recipients the opportunity to obtain postsecondary credit; any examinations related to college admission; and industry credentials, as approved by the Department; or
 - (g) Educational therapy services provided by Service Providers who meet the requirements established by the Department.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.08 TERM OF THE EFS.

- (1) A Recipient's EFS account remains open, and all available EFS funds remain in the Recipient's EFS account, from one (1) school year to another, unless one (1) or more of the events described in subparagraphs (2)(a) through (f) occurs.
- (2) A Recipient's EFS account shall be closed, and all remaining EFS funds returned to the state treasurer to be used to award EFS to Eligible Students in future years, upon the earlier of:
 - (a) The Recipient's graduation from high school or obtainment of a high school equivalency credential approved by the State Board;
 - (b) The Recipient's enrollment in a Kindergarten through grade twelve (K-12) Public School;
 - (c) The Recipient's completion of thirteen (13) school years as a Kindergarten through grade twelve (K-12) student;
 - (d) The Recipient's voluntary withdrawal from the EFS Program;

- (e) The Department disqualifying the Recipient from participating in the Program due to the Recipient's noncompliance with Program requirements. This includes, but is not limited to, the Recipient enrolling in a school that is not a Private School; a Recipient enrolling as an independent home school student; or the misuse or fraudulent use of funds; or
 - (f) The Recipient ceases to be a resident of the state of Tennessee.
- (3) An Account Holder who chooses to voluntarily withdraw from the Program at any time shall complete the procedures for withdrawal from the Program as set by the Department.
 - (4) An Account Holder may transfer the Recipient from one Private School to another Private School in accordance with procedures set by the Department.
 - (5) If an Account Holder does not follow the applicable procedures for voluntary withdrawal or transferring the student from one Private School to another Private School, the Department may remove the Recipient from the Program, return any funding in the Recipient's EFS account to the state treasurer, and prohibit the Recipient from participating in the Program in the future.
 - (6) In order for a Recipient to continue in the Program, the Account Holder shall annually apply to renew the EFS by following the procedures developed by the Department and posted on the Department's website.
 - (7) The Department shall provide the Account Holder with a written explanation of the allowable uses of EFS funds and the responsibilities of the Account Holder in connection with the EFS funds. The Department shall also provide to the Parent of Recipients or Recipients who have reached the age of eighteen (18) a written explanation of the Department's duties regarding EFS funds, Eligible Students, and Recipients.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.12 RETURN TO PUBLIC SCHOOL.

- (1) A Recipient may return to the Public School, for which he or she is zoned, at any time after enrolling in the Program. Upon enrollment in a Public School, the Recipient's participation in the Program shall be terminated.
- (2) If a Recipient ceases enrollment in a Private School, the Account Holder shall notify the Department in accordance with the procedures and timelines set by the Department.
- (3) Upon termination of a Recipient's participation in the Program, the Department shall close the Recipient's EFS account, and any remaining funds shall be returned to the state.
- (4) A Recipient with a disability shall not be determined ineligible for special education and related services under the IDEA due to the Recipient's participation in the Program. A Recipient remains eligible for special education and related services until a Tennessee LEA determines that such Recipient no longer meets the special education eligibility standards; until the student graduates with a traditional high school diploma; or until the end of the school year in which the student turns 22 years old, whichever occurs first. A Recipient in the Program is not entitled to receive a FAPE through an IEP, but he or she is eligible to receive equitable services through an ISP from the LEA serving the geographic area of the Private School in which the Recipient is enrolled.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.13 APPEAL PROCEDURES.

- (1) The decision of the Department to deny a student's application to participate in the Program or to remove a Recipient from the Program may be appealed.
- (2) The decision of the Department to suspend or terminate the participation in the Program of a Service Provider or Private School may be appealed.
- (3) The decision of the Department that an application is an Incomplete Application or an Expired Application may not be appealed.
- (4) All appeals shall be filed pursuant to the following two (2) step appeal process:
 - (a) Step one (1): The appeal shall be on the form provided by the Department and shall be submitted to the Commissioner of Education, or the Commissioner's designee, within ten (10) business days of notice of the decision being appealed. The appeal shall be reviewed by the Commissioner of Education or the Commissioner's designee, and the Commissioner or the Commissioner's designee shall electronically notify the appellant of a decision within forty-five (45) calendar days of receipt of the appeal;
 - (b) Step two (2): Within thirty (30) days of the Department's notification to the appellant of the Commissioner's or the Commissioner's designee's decision in step one (1) of the appeal process, the appellant may file, with the Commissioner, an appeal of the step one (1) decision. Such appeal shall be heard as a contested case hearing pursuant to the Uniform Administrative Procedures Act, T.C.A. Title 4, Chapter 5.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. Administrative History: Emergency rules filed March 21, 2025; effective through September 17, 2025. New rules filed June 20, 2025; effective September 18, 2025.

0520-01-24-.15 DEPARTMENT ASSESSMENT ANALYSIS.

- (1) Pursuant to T.C.A. § 49-6-3507(b) and in order to assess academic performance, the Department shall annually select a statistical sample of Recipients enrolled in any of the grades three (3) through eight (8) who, pursuant to T.C.A. § 49-6-3507(a)(1)(B), were Recipients during the prior school year and were administered TCAP assessments in the prior school year.
- (2) The statistical sample shall be determined based on all Recipients who are administered the TCAP in the relevant grade bands in the subjects of English language arts and mathematics who have a valid, reportable assessment score. While ensuring data privacy restrictions, the sample shall be sufficient to generate a 95 percent confidence interval of results being representative of the entire pool of Recipients. The Department shall prepare an annual report on the outcomes of the analysis.

Authority: T.C.A. §§ 49-1-302 and 49-6-3501, et seq. **Administrative History:** New rules filed June 20, 2025; effective September 18, 2025.effective.

AMENDMENT

Amend State Board of Education Rules 0520-01-16-.02 through .08, .11, and .13 so that as amended it shall read:

RULES OF THE STATE BOARD OF EDUCATION

CHAPTER 0520-01-16 EDUCATION SAVINGS ACCOUNTS

0520-01-16-.02 DEFINITIONS.

- (1) "Account Holder" means a parent as defined in paragraph (17) of this section or a student who has reached the age of eighteen (18) who is approved by the Department to participate in the Program, signs the ESA agreement, and is responsible for complying with all of the requirements of the Program.
- (2) "Agreement" means a document signed by a parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18) and a designee of the Department, that qualifies the parent or student who has reached the age of eighteen (18) to participate in the Program.
- (3) "Computer Hardware or Technological Devices" means computer hardware or technological devices approved by the Department that are used for the student's educational needs. Computer hardware and technological devices shall be purchased at or below fair market value through a Participating School, private school, or provider.
- (4) "Contractor" means an entity that is paid by the Department to operate the Program or portions of the Program.
- (5) "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 paragraph (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 TBI and forwarded by the TBI to the FBI 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.
- (6) "Department" means the Tennessee Department of Education.
- (7) "Early Postsecondary Opportunity Courses" means a course and/or exam recognized by the Department that gives students a chance to obtain postsecondary credit while still in high school.
- (8) "Educational Therapy Services" means individualized services provided by therapists that meet the requirements established by the Department and the State Board.

- (9) "Eligible Postsecondary Institution" means an institution operated by the Board of Trustees of the University of Tennessee; the Board of Regents of the state university and community college system; or a local governing board of trustees of a state university in this state; or a private postsecondary institution accredited by an accrediting organization approved by the State Board.
- (10) "Eligible Private School" means a private school, as defined by § 49-6-3001(c)(3)(A)(iii), that meets the requirements established by the Department and the State Board for a Category I, II, or III private school, and applies to the Department to participate in the Program.
- (11) "Eligible Student" means a Tennessee resident in grades kindergarten through twelve (K-12) who:
- (a) Meets one (1) of the following enrollment requirements:
 - 1. Was previously enrolled in and attended a Tennessee public school for the one (1) full school year immediately preceding the school year for which the student receives an ESA;
 - 2. Is eligible for the first time to enroll in a Tennessee school;
 - 3. Has an ESA at the time of application submission;
 - 4. Was enrolled in and attended a Tennessee public school for one (1) full school year in the 2019-20, 2020-21, or 2021-22 school year; or
 - 5. Was eligible for the first time to enroll in a Tennessee public school in the 2019-20, 2020-21, or 2021-22 school year;
 - (b) Is zoned to attend a school in Shelby County Schools, Metropolitan Nashville Public Schools, Hamilton County Schools, or is zoned to attend a school that was in the Achievement School District on May 24, 2019; and
 - (c) Is a member of a household with an annual income for the previous year that does not exceed twice the federal income eligibility guidelines for free lunch.
- (12) "ESA" means a Tennessee Education Savings Account.
- (13) "Fee-for-Service Transportation Provider" means a commercial transportation provider including a school bus service. It does not include private transportation by a family member, parent, or Participating Student in accordance with the conflict of interest provisions set forth in this Chapter.
- (14) "IEP" means an Individualized Education Program developed by a public school pursuant to the Individuals with Disabilities Education Act at 20 U.S.C. §§ 1400, et seq.
- (15) "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 by the student's parent.
- (16) "Legacy Student" means a Participating Student who graduates from high school or exits the Program by reaching twenty-two (22) years of age; and
- (a) Has funds remaining in the student's ESA; and

- (b) Has an open ESA.
- (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 Tennessee general assembly.
- (18) “Marketplace” means a closed marketplace that functions as a centralized digital platform and wallet where parents can direct ESA funds toward pre-approved educational goods and services from Department-approved vendors.
- (19) “Parent” means the parent, legal guardian, person who has custody of the child, or person with caregiving authority for the child under T.C.A. § 49-6-3001.
- (20) “Participating School” means an Eligible Private School that has been approved to participate in the Program and seeks to enroll Eligible Students.
- (21) “Participating Student” means an Eligible Student who is seventeen (17) years of age or younger and whose parent is participating in the Program or an Eligible Student who has reached the age of eighteen (18) and is participating in the Program.
- (22) “Private or Non-Profit Financial Management Organization” means an institution selected by the Department to administer the ESA.
- (23) “Program” means the ESA Program created in T.C.A. §§ 49-6-2602, et seq.
- (24) “Provider” means an individual or business that provides educational services in accordance with T.C.A. §§ 49-6-2601, et seq. and that meets the requirements established by the Department and the State Board.
- (25) “State Board” means the Tennessee State Board of Education.
- (26) “Summer Education Programs and Specialized Afterschool Education Programs” means educational programs approved by the Department that are operated outside of the regular school day or school year, which do not include afterschool childcare.
- (27) “Technology Fees” means fees charged by a Participating School, private school, or provider for the use of technology or technological devices.
- (28) “Tuition or Fees” means tuition or fees of an instructional nature at a Participating School, or an Eligible Postsecondary Institution. Fees do not include: room and board, food, or consumable school supplies.
- (29) “Tutoring Services” means educational services provided by a tutor or tutoring facility that is approved by the Department and the State Board.
- (30) “Qualified Expenses” means the expenses outlined in T.C.A. § 49-6-2603(a)(4) and this rule.

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. Administrative History: Original rules filed November 27, 2019; effective February 25, 2020. Amendments filed December 18, 2023; effective March 17, 2024.

0520-01-16-.03 APPLICATION AND ADMISSION.

- (1) To apply to receive an ESA, the parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18), must submit a completed application through the Department's website by the deadline set by the Department.
- (2) As part of the Program application, the parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18), must provide verification that the student is a member of a household with an annual income for the previous year that does not exceed twice the federal income eligibility guidelines for free lunch.
 - (a) Income verification shall be established through:
 1. Federal income tax returns from the previous year; or
 2. Proof of eligibility for enrollment in the state's Temporary Assistance for Needy Families (TANF) program.
 - (b) The Department may require additional information to verify household income.
 - (c) Students identified as "economically disadvantaged" as defined in T.C.A. § 49-3-104(10) shall automatically satisfy the income requirements for eligibility.
- (3) If, in the application period for a school year, the number of Program applications received by the Department from Eligible Students exceeds the maximum number of students that may participate in the Program for that school year pursuant to T.C.A. § 49-6-2604(c), then the Department shall conduct an enrollment lottery process. Students who participated in the Program in the previous school year shall be reenrolled in the Program if renewal criteria is met and shall be excluded from entering into an enrollment lottery. If an enrollment lottery is conducted, then enrollment priority must be granted in the following order:
 - (a) Eligible Students who have a sibling participating in the Program;
 - (b) Eligible Students zoned to attend a priority school as defined by the state's accountability system pursuant to T.C.A. § 49-1-602, at the time of the enrollment lottery;
 - (c) Eligible Students eligible for direct certification under 42 U.S.C. § 1758(b)(4); and
 - (d) All other Eligible Students.
- (4) Once a completed application has been approved by the Department, the parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18) shall complete the enrollment procedures set by the Department to become enrolled in the Program. If the enrollment process is not fully completed by the deadline set by the Department, the Eligible Student shall not be enrolled in the Program during the school year for which the applicant applied to participate in the Program.

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. Administrative History: Original rules filed November 27, 2019; effective February 25, 2020. Amendments filed December 18, 2023; effective March 17, 2024.

0520-01-16-.04 AGREEMENT AND FUNDS TRANSFER.

- (1) Upon notification by the Department that an ESA may be established, a parent of an Eligible Student or an Eligible Student who has reached the age of eighteen (18) shall sign an Agreement to:

- (a) Ensure the provision of an education for the Participating Student that satisfies the compulsory school attendance requirement provided in T.C.A. § 49-6-3001(c)(1) through enrollment in a Category I, II, or III private school as defined by the State Board;
 - (b) Comply with the requirement that Participating Students in grades three through eleven (3-11) be administered a nationally standardized achievement test that is aligned to the respective participating school's instructional plan, as determined by State Board Rule 0520-07-02 or the Tennessee comprehensive assessment program (TCAP) tests for math and English language arts, each year of enrollment in the Program;
 - (c) Not enroll the Participating Student in a public school during the time the student is enrolled in the Program;
 - (d) Not enroll the Participating Student in the Individualized Education Account (IEA) Program or the Education Freedom Scholarship (EFS) Program during the time the student is enrolled in the Program;
 - (e) Release the LEA in which the Participating Student resides and the school for which the Participating Student is zoned to attend from all obligations to educate the Participating Student during the time the Participating Student is enrolled in the Program;
 - (f) Acknowledge that participation in the Program has the same effect as parental refusal to consent to the receipt of services under the Individuals with Disabilities Education Act at 20 U.S.C. § 1414. Participating Students will no longer be entitled to a free appropriate public education (FAPE) provided through an IEP but instead will be entitled to equitable services through an ISP. Account holders acknowledge that students with an ISP are only entitled to receive some special education and related services, not all of the services that are required for a student with an IEP to receive FAPE. Participating Students who previously held IEPs should engage with the LEA to develop an ISP through the consultation process, as defined in 34 C.F.R. § 300.134 and 300.137.
 - (g) Acknowledge that if the Participating Student enrolls in the ESA Program, the Participating School is only required to comply with the requirements of Section 504 of the Rehabilitation Act of 1973 if the school receives federal funding; and
 - (h) Comply with the acceptable uses of ESA funds and the responsibilities of the Parent of a Participating Student or Participating Student who has reached the age of eighteen (18).
- (2) The Agreement and any additional information required by the Department shall be submitted to and received by the Department by the deadlines set by the Department before the first ESA payment is disbursed.
 - (3) The Agreement shall be signed by the Parent of an Eligible Student or by the Eligible Student who has reached the age of eighteen (18) and a designee of the Department to be effective. If the agreement is not signed by the deadline set by the Department, the Eligible Student shall not be enrolled in the Program during the school year for which the applicant applied to participate in the Program.
 - (4) The Department shall establish procedures to effectuate the ESA funds transfer process and dates on which each ESA payment shall be disbursed.
 - (5) Prior to the first disbursement of ESA funds, the Account Holder must provide proof of enrollment in a Category I, II, or III private school. No funds shall be disbursed to an ESA account without proof of enrollment in a Category I, II, or III private school. If the enrollment process is not fully completed in the ESA online portal by the deadline set by the Department,

the Eligible Student shall not be enrolled in the Program during the school year for which the applicant applied to participate in the Program.

- (6) ESA funds shall not be used for Tuition or Uniforms at a non-participating school.
- (7) The maximum annual amount to which a Participating Student is entitled under the Program shall be equal to the amount representing the per pupil state and local funds generated and required through the state's K-12 education funding formula for the LEA in which the Participating Student resides, or the statewide per pupil average of required state and local funds as determined through the state's K-12 education funding formula, whichever amount is less.
- (8) If a Participating Student enrolls in the Program for less than an entire school year, the ESA amount for that school year shall be reduced on a prorated daily basis.
- (9) In accordance with the procedures set by the Department, the Department may remove any Account Holder from eligibility for an ESA if the Account Holder fails to comply with the terms of the Agreement or applicable laws, rules or procedures, or misuses funds. The Account Holder may appeal the Department's decision pursuant to the appeal procedures outlined in this rule.
- (10) If the Department determines that ESA funds have been misused, the Department shall notify the Account Holder, and the Account Holder shall repay the misused amount in the manner and within the timeframe set by the Department. Additionally, the Department is authorized to freeze or withdraw funding directly from the student's ESA for reasons including, but not limited to, fraud, misuse of funds, Account Holder failure to comply with state laws, rules, procedures or the Agreement, the Participating Student's return to the LEA, or the funds having been deposited into the account in error. An Account Holder may appeal the Department's decision pursuant to the appeal procedures outlined in this rule.

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. and Public Chapter 1069 of 2026. Administrative History: Original rules filed November 27, 2019; effective February 25, 2020. Amendments filed May 26, 2023; effective August 24, 2023. Amendments filed December 18, 2023; effective March 17, 2024.

0520-01-16-.05 USE OF FUNDS.

- (1) Account Holders shall agree to use the funds deposited in the ESA for any, or any combination of, the following expenses:
 - (a) Tuition or fees at a Participating School;
 - (b) Textbooks required by a Participating School;
 - (c) Tutoring Services provided by:
 - 1. An individual tutor, including, but not limited to, a licensed Tennessee educator;
 - 2. A tutoring facility accredited by one (1) of the following: any accreditation division of AdvancED (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");

- (d) Fees for transportation paid to a Fee-for-Service Transportation Provider. Transportation fees can only be used for transportation to and from:
 - 1. Participating Schools; or
 - 2. Providers;
 - (e) Fees for Early Postsecondary Opportunity Courses and related examinations, or any examinations related to college admission;
 - (f) Computer Hardware, Technological Devices, or other technology fees approved by the Department, if the Computer Hardware, Technological Device, or technology fee is used for the student's educational needs and is purchased at or below fair market value through a Participating School, Private School, or Provider;
 - (g) School uniforms, if required by a Participating School;
 - (h) Tuition and fees for Summer Education Programs and Specialized Afterschool Education Programs, as approved by the Department, which do not include afterschool childcare;
 - (i) Tuition and Fees at an Eligible Postsecondary Institution;
 - (j) Textbooks required by an Eligible Postsecondary Institution;
 - (k) Educational Therapy Services designed to improve academic performance through instructional and therapeutic techniques, and provided by therapists that meet the requirements established by the Department and the State Board; and/or
 - (l) Fees for the management of the ESA by a Private or Non-Profit Financial Management Organization approved by the Department, not to exceed two percent (2%) of the funds deposited in an ESA account in a fiscal year.
- (2) Account Holders shall use the Marketplace when expending ESA funds to purchase pre-approved educational goods and services from Department-approved vendors.
 - (3) Any Tuition or Fees charged by a Participating School or Eligible Postsecondary Institution that are not paid by the ESA shall be the responsibility of the Account Holder.

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. Administrative History: Original rules filed November 27, 2019; effective February 25, 2020. Amendments filed December 18, 2023; effective March 17, 2024.

0520-01-16-.06 TERM OF THE ESA.

- (1) For purposes of continuity of educational attainment, a Participating Student shall remain eligible to participate in the Program until the Participating Student meets one (1) of the following, whichever occurs first:
 - (a) Enrolls in a public school;
 - (b) Enrolls in a Category IV or V private school or a private school not approved under the rules of the State Board;
 - (c) Ceases to be zoned to attend a public school in Memphis-Shelby County Schools, Hamilton County Schools, or Metro Nashville Public Schools;

- (d) Is suspended or terminated from participating in the Program in accordance with T.C.A. § 49-6-2808;
 - (e) Graduates or withdraws from high school with no funds remaining in an open ESA account;
 - (f) Reaches twenty-two (22) years of age with no funds remaining in an open ESA account. However, if the Participating Student reaches the age of twenty-two (22) with funds remaining in an open ESA account after the commencement of the school year, the Participating Student may remain in the Program until the conclusion of that school year; or
 - (g) No longer meets or fails to verify that the Participating Student's household income meets the requirements of T.C.A. § 49-6-2602(3)(D) and this rule according to the schedule and income-verification process developed by the Department.
- (2) A Participating Student may voluntarily withdraw from the Program at any time. The Account Holder shall complete the procedures for withdrawal from the Program as set by the Department.
 - (3) If a Participating Student becomes ineligible to participate in the Program for any reason or withdraws from the Program, the Participating Student's ESA shall be closed and any remaining funds shall be returned to the State Treasurer to be placed in the Education Trust Fund of 1992 under T.C.A. §§ 49-3-357 and 49-3-358.
 - (4) The Account Holder may transfer the Participating Student from the Participating School to another Participating School in accordance with procedures set by the Department.
 - (5) In order for a Participating Student to continue in the Program, the Account Holder shall annually apply to renew the ESA by following the procedures developed by the Department and posted on the Department's website.
 - (6) If a Participating Student graduates high school or reaches twenty-two (22) years of age while enrolled in high school pursuant to T.C.A. § 49-6-2603(d)(1), and has funds remaining in the Participating Student's open ESA, the Participating Student shall become a Legacy Student.
 - (a) A Legacy Student may use ESA funds to attend or take courses from an Eligible Postsecondary Institution if those expenditures are determined to be Qualifying Expenses.
 - (b) A Legacy Student's ESA shall be closed and any remaining funds shall be returned to the State Treasurer to be placed in the Education Trust Fund of 1992 under T.C.A. §§ 49-3-357 and 49-3-358, after the first of the following events:
 - 1. Upon a Legacy Student's graduation from an Eligible Postsecondary Institution;
 - 2. After four (4) consecutive years elapse immediately after a Legacy Student enrolls in an Eligible Postsecondary Institution; or
 - 3. After a Legacy Student is not enrolled in an Eligible Postsecondary Institution for twelve (12) consecutive months.
 - (7) Account Holders are not required to spend the entire sum each year. However, a minimum amount of fifty percent (50%) of the funds must be used each year on approved expenses for the benefit of the student enrolled in the Program.

- (a) If overall spending does not equal fifty percent (50%) by the deadline set by the Department and if the ESA is renewed for the following year, the Department shall subtract the difference from the payments in the next contract year. If a student withdraws from the ESA Program or if the ESA is not renewed, the ESA shall be closed, and any remaining funds shall be returned to the state treasurer pursuant to T.C.A. § 49-6-2603.
- (8) The Department shall provide Parents of Participating Students or Participating Students who have reached the age of eighteen (18) with a written explanation of the allowable uses of ESA funds and the responsibilities of Parents of Participating Students and Participating Students who have reached the age of eighteen (18) regarding ESA funds. The Department shall also provide Parents of Participating Students or Participating Students who have reached the age of eighteen (18) with a written explanation of the Department's duties regarding ESA funds, Eligible Students, Participating Students, and Legacy Students.

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. Administrative History: Original rules filed November 27, 2019; effective February 25, 2020. Amendments filed May 26, 2023; effective August 24, 2023. Amendments filed December 18, 2023; effective March 17, 2024.

0520-01-16-.07 MONITORING AND COMPLIANCE.

- (1) The Department shall conduct fiscal and program compliance reviews of all ESAs pursuant to procedures developed by the Department.
- (2) The Department may conduct or contract for random, quarterly, or annual review(s) of ESAs.
- (3) The Department shall establish or contract for the establishment of an online anonymous fraud reporting service and an anonymous telephone hotline for reporting fraud. Individuals may notify the Department of any alleged violation by an Account Holder or Participating School(s) of state laws, rules, or procedures relating to the Program. The Department shall conduct an inquiry into any report of fraud, or make a referral to the appropriate agency for an investigation.

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. **Administrative History:** Original rules filed November 27, 2019; effective February 25, 2020.

0520-01-16-.08 PARTICIPATING SCHOOLS.

- (1) Eligible Private Schools interested in enrolling students receiving ESAs shall submit an application to the Department by the deadline set by the Department.
 - (a) The Department shall develop an application and application process for Eligible Private Schools to participate in the Program. Such application shall be posted on the Department's website. and shall request, at a minimum, the following information from an applicant:
 - 1. The maximum number of students receiving ESAs that the school has the capacity to enroll per grade level;
 - 2. Demonstration of financial viability to repay any funds that may be owed to the state by filing with the application financial information verifying the school has the ability to pay an aggregate amount equal to twenty-five percent (25%) of the amount of ESA funds expected to be paid during the school year. The school may comply with this requirement by filing an annual surety bond payable to the state from a surety, and in an amount determined by the Department; and

3. The school's academic calendar, the school's admission policy, and the school's tuition and fee schedule.
 - (b) The Department shall review the application and notify the school as to whether the school meets the requirements outlined in (a) to become a Participating School and receive ESA funds from a Participating Student for Qualified Expenses, including tuition and fees.
 - (c) If an Eligible Private School is approved to be a Participating School, the Department shall list the school on the Department's website, including grades served and any other information the Department determines may assist parents in selecting a Participating School.
- (2) As a condition of approval to become a Participating School, the school shall agree to the following:
- (a) Be academically accountable to the Account Holder for meeting the educational needs of the Participating Student by:
 1. At a minimum, annually providing to the Account Holder a written explanation of the student's progress;
 2. Ensuring Participating Students in grades three through eleven (3-11) are administered a nationally standardized achievement test that is aligned to the respective participating school's instructional plan, as determined by State Board Rule 0520-07-02 or the TCAP tests for math and English language arts, each year the Participating Student is enrolled in the Participating School; and
 3. Providing the results of the test or tests administered pursuant to this section to the Participating Student's parents.
 - (b) By June 30, 2027, and by each June 30 thereafter, provide the results of the tests administered to participating students to the Office of Research and Education Accountability (OREA) in the office of the Tennessee Comptroller of the Treasury, using a form developed and provided by OREA. Scores may be provided to the OREA using aggregated, deidentified data if the data allows the OREA to group and analyze the results by participating student grade level, household income level, sex, and race. Test results and other data pertaining to students who are not participating students are not subject to the reporting requirements of this section;
 - (c) Comply with all state and federal health and safety laws or codes that apply to non-public schools;
 - (d) Comply with monitoring requirements set by the Department;
 - (e) Certify that they shall not discriminate against Participating Students or applicants on the basis of race, color, or national origin;
 - (f) Agree to accept reimbursement payments for tuition and fees from an Account Holder on the payment schedule identified by the Department;
 - (g) Agree to participate in the Program for the full school year unless the school is suspended or terminated by the Department;
 - (h) Comply with T.C.A. § 49-5-202;

- (i) Comply with the minimum kindergarten age requirement pursuant to T.C.A. § 49-6-201(b)(3) and the State Board of Education Rule 0520-07-02;
- (j) Conduct criminal background checks on employees upon employment and at least every five (5) years thereafter; and
- (k) Exclude from employment:
 - 1. Any person not permitted by state law to work in a non-public school; and
 - 2. Any person who might reasonably pose a threat to the safety of students. Participating Schools have ultimate discretion to determine whether or not a person might reasonably pose a threat to the safety of students; however, Participating Schools may consider excluding persons who have ever been convicted of any of the following offenses, or the same or similar offense in any jurisdiction, including convictions for the solicitation of, attempt to commit, conspiracy, or acting as an accessory to:
 - (i) A sexual offense or a violent sexual offense as defined in T.C.A. § 40-39-202;
 - (ii) An offense listed in T.C.A. §§ 39-13-102 – 39-13-115;
 - (iii) An offense listed in T.C.A. §§ 39-14-301 and 39-14-302;
 - (iv) An offense listed in T.C.A. §§ 39-14-401 – 39-14-404;
 - (v) An offense listed in T.C.A. §§ 39-15-401 and 39-15-402;
 - (vi) An offense listed in T.C.A. § 39-17-417; and
 - (vii) An offense listed in T.C.A. Title 39, Chapter 17, Part 13.
- (3) The funds in an ESA may be used only as provided in section .05 of this rule for educational purposes. Participating Schools that enroll Participating Students shall provide Account Holders with a receipt for all qualifying expenses paid to the Participating School using ESA funds.
- (4) Participating Schools shall not charge an Account Holder or Participating Student additional tuition or fees that are not also charged to non-participating students.
- (5) Participating Schools shall not, in any manner, refund, rebate, or share ESA funds with an Account Holder or Participating Student.
- (6) Within five (5) business days of receipt of a Participating Student's notice of withdrawal, a Participating School shall notify the Department of the Participating Student's withdrawal.
- (7) Participating Schools shall annually submit to the Department the graduation and completion information of Participating Students in accordance with procedures set by the Department.
- (8) Annually, Participating Schools shall submit a notice to the Department if they intend to continue participating in the Program by following the procedures developed by the Department.

- (9) The Department may suspend or terminate a Participating School from participating in the Program if the Department determines the school has failed to comply with state law, rules, or procedures.
 - (a) If the Department suspends or terminates a school's participation, the Department shall notify the affected Participating Students, the Account Holder, and the Participating School of the decision. If a Participating School is suspended or terminated or if a Participating School withdraws from the Program, affected Participating Students remain eligible to participate in the Program.
 - (b) A Participating School may appeal the Department's decision pursuant to the appeals procedures set forth in this Chapter.
- (10) The Department may suspend or terminate a Participating School from participating in the Program for low academic performance. Low academic performance is defined as failure of Participating Students to make academic progress as demonstrated by multiple performance measures, including, but not limited to, lack of progress or growth on the TCAP tests, or successor tests approved by the State Board, or any nationally normed assessment utilized by the Participating School.
- (11) All contracts entered into are the responsibility of the private parties involved.

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. and Public Chapter 1069 of 2026. Administrative History: Original rules filed November 27, 2019; effective February 25, 2020. Amendments filed December 18, 2023; effective March 17, 2024.

0520-01-16-.11 APPEAL PROCEDURES.

- (1) The following decisions of the Department may be appealed:
 - (a) Denial of a school's application to become a Participating School;
 - (b) Suspension or termination of a Participating School from the Program;
 - (c) Suspension or termination of a provider from the Program;
 - (d) Denial of a parent's, or student who has reached the age of eighteen's (18), application to participate in the Program;
 - (e) Determinations regarding the use of funds by Account Holders; or
 - (f) Suspension, termination, or removal of a Participating Student from the Program.
- (2) All appeals shall be filed pursuant to the following two (2) step appeal process:
 - (a) Step one (1): The appeal shall be on the form provided by the Department and shall be submitted to the Commissioner of Education, or the Commissioner's designee, within ten (10) business days of notice of the decision being appealed. Notice of the decision being appealed shall be provided electronically. The appeal shall be reviewed by the Commissioner of Education, or the Commissioner's designee, and a decision shall be issued within forty-five (45) calendar days of receipt of the appeal;
 - (b) Step two (2): The appellant shall be notified of the Commissioner's or Commissioner's designee's decision in step one (1) of the appeal process electronically. An appeal of the step one (1) decision shall be filed with the Commissioner by the appellant within thirty

(30) calendar days of receipt and shall be heard as a contested case hearing pursuant to the Uniform Administrative Procedures Act (T.C.A. Title 4, Chapter 5).

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. Administrative History: Original rules filed November 27, 2019; effective February 25, 2020.

0520-01-16-.13 DEPARTMENT ASSESSMENT ANALYSIS.

- (1) In order to assess academic performance, the Department shall annually select a statistical sample of participating students enrolled in participating schools in any of the grades three (3) through eight (8) who were administered TCAP tests for the prior school year.
- (2) The statistical sample shall be determined based on all participating students who are administered the TCAP in the relevant grade bands in the subjects of English language arts and mathematics who have a valid, reportable assessment score. While ensuring data privacy restrictions, the sample shall be sufficient to generate a 95 percent confidence interval of results being representative of the entire pool of participating students. The Department shall prepare an annual report on the outcomes of the analysis.

Authority: T.C.A. §§ 49-1-302 and 49-6-2601, et seq. and Public Chapter 1069 of 2026. Administrative History:

AMENDMENT

Amend State Board of Education Rules 0520-01-11-.02 through .06, so that as amended it shall read:

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, 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 Application .
- (6) "Computer Hardware or Other Technological Devices" means computer hardware or technological devices approved by the Department or a licensed treating physician that are 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 or certified therapists who meet 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 for the Participating Student that promote access to instruction or instructional content 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 resident of this state entering kindergarten through grade twelve (K-12) who:
- (a) Has 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 qualifying disabilities identified in T.C.A. § 49-10-1402(3)(A)(i) as the primary or secondary disability in effect at the time the Department receives the application 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 are identified in T.C.A. § 49-10-1402; and 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. Has an IEA at the time of application submission; or
 - (b) Is a child participating in the Tennessee Early Intervention System (TEIS) Extended Option whose eligibility report under Part B of the Individuals with Disabilities Education Act lists a disability identified in T.C.A. § 49-10-1402(3)(A)(i).
- (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.
- (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) "Application" 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. and Public Chapter 1040 of 2026. 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. Amendments filed October 2, 2025, effective December 31, 2025.

0520-01-11-.03 APPLICATION.

- (1) To apply to participate in the Program, an Applicant shall fully complete the Application available through the Department's website by the deadline set by the Department.
 - (a) The Department may assist an Applicant in filing the Application .
 - (b) If the student is over eighteen (18) years of age at the time of application, the student's parent or guardian may not apply to the Program on behalf of the student unless the student's parent or guardian attaches proof of a power of attorney, created in accordance with T.C.A. §§ 34-6-101 et seq., or a conservatorship, created in accordance with §§ 34-3-101 et seq., demonstrating that the student's educational and financial decision-making rights have been transferred to his or her parent or guardian.
- (2) The Department shall make a determination of eligibility to participate in the Program and notify the Applicant.
- (3) Once a completed Application has been approved by the Department, the Applicant shall complete the enrollment procedures set by the Department to become enrolled in the Program, including execution of an Agreement to participate in the Program. If the enrollment process is not fully completed by the deadline set by the Department, the Eligible Student shall not be enrolled in the Program during the school year for which the applicant applied to participate in the Program.

Authority: T.C.A. §§ 34-3-101, et seq.; 34-6-101, et seq.; 49-1-302; and 49-10-1405. 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.

0520-01-11-.04 TERM OF THE IEA.

- (1) For purposes of continuity of educational attainment, a student who enrolls in the Program shall remain eligible until the Participating Student meets one (1) of the following, whichever occurs first:
 - (a) Enrolls full-time in a public school;
 - (b) Graduates from high school. The student may continue in the Program until such time as he or she receives a high school diploma, or receives a high school equivalency credential approved by the State Board of Education. Certificates of attendance do not constitute graduation from high school for the purpose of this Program; or
 - (c) Reaches twenty-two (22) years of age. The student may complete the school year in which he or she reaches the age of twenty-two (22), provided a student shall not be enrolled in the Program past August 15 of the next school year after they have reached twenty-two (22) years of age.
- (2) The Account Holder may remove the Participating Student from the non-public school and place the student in a public school. The Account Holder shall complete the procedures for withdrawal from the IEA Program set by the Department.
- (3) The Account Holder may move the student from one (1) non-public school to another non-public school in accordance with procedures set by the Department.
- (4) In order for students to continue in the Program, the Account Holder shall annually renew the IEA by following the procedures posted on the Department's website.
- (5) After graduating from high school or reaching twenty-two (22) years of age, unused funds in an IEA from prior years can be used in subsequent years, up to four (4) consecutive years after a student has exited the Program, provided the student attends or takes courses from an Eligible Postsecondary Institution and the expenditures are determined to be qualifying expenses.
- (6) Account Holders are not required to spend the entire sum each year, however, a portion of the funds shall be used each year on approved expenses for the benefit of the student enrolled in the IEA Program and overall spending shall equal fifty (50) percent of the annual award by the deadline for submission of the last expense report of the contract year.
 - (a) If overall spending does not equal fifty (50) percent by the deadline set by the Department and if the IEA is renewed for the following year, the Department shall subtract the difference from the payments in the next contract year. If a student withdraws from the IEA Program or if the IEA is not renewed, the IEA shall be closed, and any remaining funds shall be returned to the state treasurer pursuant to T.C.A. § 49-10-1403.
- (7) All benefits and obligations established by participation in the Program, including the right to continue participation in the IEA Program, vest in the Participating Student when the student attains eighteen (18) years of age, unless the student's educational and financial decision-making rights have been transferred to his or her parent or guardian through a power of attorney, created in accordance with T.C.A. §§ 34-6-101 et seq., or a conservatorship, created in accordance with §§ 34-3-101 et seq.

Authority: T.C.A. §§ 34-3-101, et seq.; 34-6-101, et seq.; 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.

0520-01-11-.05 AGREEMENT AND FUNDS TRANSFER.

- (1) Upon notification by the Department that an IEA may be established, the applicant shall sign an Agreement outlining the Account Holder's contractual obligations upon enrolling in the Program, including the acceptable uses of IEA funds and expense reporting requirements. In the Agreement, the Account Holder shall:
 - (a) Agree to provide an education for the Participating Student in at least the subjects of English language arts, mathematics, social studies, and science;
 - (b) Agree to not enroll the Participating Student in a public school during the time the student is enrolled in the IEA Program;
 - (c) Agree to not enroll the Participating Student in the Education Savings Account (ESA) Program or the Education Freedom Scholarship (EFS) Program during the time the student is enrolled in the Program;
 - (d) Agree to release the LEA in which the student resides and the school for which the student is zoned to attend from all obligations to educate the student during the time the student is enrolled in the IEA Program;
 - (e) Acknowledge that participation in the Program has the same effect as parental refusal to consent to the receipt of services under the Individuals with Disabilities Education Act at 20 U.S.C. § 1414. Participating Students will no longer be entitled to a free appropriate public education (FAPE) provided through an IEP but instead will be entitled to equitable services through an ISP. Account holders acknowledge that students with an ISP are only entitled to receive some special education and related services, not all of the services that are required for a student with an IEP to receive FAPE. Participating Students who previously held IEPs should engage with the LEA to develop an ISP through the consultation process, as defined in 34 C.F.R. §§ 300.134 and 300.137.
- (2) The Agreement shall:
 - (a) Be submitted to the Department, along with all required information, by the date set by the Department before the first IEA payment is disbursed; and
 - (b) Be signed by the Account Holder prior to becoming effective.
- (3) After the Agreement is fully executed by the Account Holder and the Department, the Department shall remit the first payment to the IEA. IEA funds shall be remitted to the IEA thereafter until termination of the Agreement.
- (4) The Department shall establish procedures to effectuate the funds transfer process and dates on which each IEA payment shall be disbursed.

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 24, 2024; effective April 23, 2024.

0520-01-11-.06 ACCOUNT HOLDER OBLIGATIONS.

- (1) Account Holders shall agree to use the funds deposited in the IEA for any, or any combination of, the following expenses:
 - (a) Tuition or fees at a Participating School;
 - (b) Textbooks required by a Participating School;
 - (c) Tutoring Services provided by an individual tutor who meets the requirements set by the Department or a tutoring organization 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);
 - (d) Payment for purchase of curriculum, defined as instructional educational materials for an academic course of study for a particular content area, including any supplemental materials;
 - (e) Fees for transportation paid to a Fee-for-Service Transportation Provider. Transportation fees can only be used for transportation to schools and educational providers (including tutors and therapists);
 - (f) Tuition or fees for a Non-public Online Learning Program or Course that meets the requirements set by the Department;
 - (g) Fees for nationally standardized norm-referenced achievement tests, Advanced Placement examinations, or any examinations related to college or university admission;
 - (h) Contributions to a Coverdell education savings account established under 26 U.S.C. § 530 for the benefit of the Participating Student;
 - (i) Educational Therapies or services, including copays or coinsurance, for Participating Students;
 - (j) Services provided under a contract with a public school, including individual classes and extracurricular programs;
 - (k) Tuition or fees at an Eligible Postsecondary Institution;
 - (l) Textbooks required for courses at an Eligible Postsecondary Institution;
 - (m) Fees for the management of the IEA by private financial management firms;
 - (n) Computer Hardware and Other Technological Devices approved by the Department or a licensed treating physician, if the computer hardware is used for the student's educational needs. and is a required device for communication or physical access to

instruction due to the adverse impact of the disability for which the student qualifies to receive an IEA or allows a student to access instruction or instructional content.

- (2) Account Holders shall obtain pre-approval for Educational Therapies, Computer Hardware and Other Technological Devices, Tutoring Services, and any other expenses identified by the Department. If pre-approval is not obtained, the expense may be deemed an unapproved expenditure. An Account Holder may request pre-approval by completing and submitting the Department's pre-approval form. For computer hardware and technological devices, a licensed treating physician may also submit the pre-approval form.
- (3) After the initial payment to the IEA, the Account Holder shall submit expense reports and receipts for all IEA funds expended in accordance with the procedures set by the Department before the next IEA payment is disbursed.
- (4) In accordance with the procedures of the Department, the Department may immediately and permanently remove any Participating Student from eligibility for an IEA if the Account Holder fails to comply with the terms of the IEA Agreement or applicable laws, rules or procedures, or misspends funds. The Account Holder may appeal the Department's decision pursuant to the appeal procedures outlined in this Chapter.
- (5) If the Department determines that IEA funds have been misspent, the Department shall notify the Account Holder, and the Account Holder shall repay the misspent amount in the manner and within the timeframe set by the Department. The Department is authorized to freeze, suspend, and/or withdraw funding directly from the student's IEA for reasons including, but not limited to, fraud, misuse of funds, Account Holder failure to comply with the terms of the state laws, rules, procedures, or the Agreement, if the student returns to the LEA, or if funds were deposited into the account in error. The Account Holder may appeal the Department's decision pursuant to the appeal procedures outlined in this Chapter.

Authority: T.C.A. §§ 49-1-302 and 49-10-1401, et seq. and Public Chapter 1040 of 2026. 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 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.

AMENDMENT

Amend State Board of Education Rule 0520-01-03-.05, so that as amended it shall read:

RULES OF THE STATE BOARD OF EDUCATION

CHAPTER 0520-01-03 ACADEMIC AND INSTRUCTIONAL REQUIREMENTS

0520-01-03-.05 VIRTUAL EDUCATION.

(1) Public Virtual Schools

- (a) A “public virtual school” is a public school that uses technology to deliver a significant portion of instruction to its students via the internet in a virtual or remote setting. Public virtual schools may be established in accordance with T.C.A. §§ 49-16-201 – 49-16-216 and the rules and regulations of the State Board. The LEA establishing the public virtual school is directly responsible for the performance of the public virtual school and ensuring the school remains in compliance with all applicable state and federal laws and rules and regulations of the State Board, regardless of whether the LEA directly operates the school or contracts with an entity for the management or operation of the school.
- (b) Public virtual schools shall:
 - 1. Be established and approved by an LEA.
 - 2. Use technology to deliver a significant portion of instruction to its students via the internet in a virtual or remote setting.
 - 3. Review and provide access to a sequential curriculum that meets or exceeds the academic standards adopted by the State Board utilizing state-approved textbooks and instructional materials, unless a waiver has been granted to the LEA in accordance with T.C.A. § 49-6-2206 and State Board Rules Chapter 0520-01-18.
 - 4. Meet the equivalent of the one hundred and eighty (180) days of instruction per academic year and six and one-half (6½) hours of instructional time per day pursuant to T.C.A. § 49-6-3004, provided, however, that a student, at the student’s own pace, may demonstrate mastery or completion of a course or subject area and be given credit for the course or subject area.
 - 5. Administer all state tests required of public school students to students enrolled in a virtual school in a proctored environment consistent with state test administration guidelines.
 - 6. Be evaluated annually by the LEA.
 - (i) The evaluation must assess the following utilizing a standardized template provided by the Department of Education:
 - (I) Academic, fiscal, and operational performance; and
 - (II) The extent to which the school demonstrates increases in student achievement.

- (ii) The results of such evaluation shall be publicly reported through the following methods:
 - (I) Posting of the results of the evaluation, utilizing a standardized template provided by the Department of Education on both the virtual school's and the LEA's website;
 - (II) Direct distribution of the evaluation, utilizing a standardized template provided by the Department of Education, to all enrolled families. Such distribution may be accomplished via e-mail, U.S. mail, or other method determined by the LEA.
- 7. Ensure that students with special needs, including students with disabilities and limited English proficiency, are not excluded from enrolling and participating in virtual schools, and receive all services required by the student's Individualized Education Program (IEP), Section 504 Plan, or Individual Learning Plan (ILP).
- 8. Ensure that each virtual school course has an assigned teacher of record who is properly endorsed and licensed to teach in Tennessee in compliance with state law, State Board Rules Chapter 0520-02-03, and State Board Policy 5.502. For purposes of virtual schools, teacher of record means the teacher who:
 - (i) Provides instruction for the course based on the Tennessee Academic Standards;
 - (ii) Ensures student progress toward the Tennessee Academic Standards;
 - (iii) Monitors the physical safety and well-being of students;
 - (iv) Verifies attendance and reports course grades for students; and
 - (v) If the teacher is employed by the LEA, claims instructional time for instructionally available students.
- 9. Ensure that all teachers employed by the LEA serving as teacher of record within the virtual school are evaluated annually pursuant to T.C.A. § 49-1-302 and State Board Rules Chapter 0520-02-01.
- 10. Ensure students have access to instructional materials, technology such as a computer and printer that may be necessary for participation in the virtual school, and an internet connection used for school work.
- 11. Meet class size standards established by T.C.A. § 49-1-104. A public virtual school may increase the enrollment in virtual classes by up to twenty-five percent (25%) over the class size maximum established by T.C.A. § 49-1-104 if the school demonstrates student achievement growth at a level of "at expectations" or greater, as represented by the Tennessee Value-Added Assessment System (TVAAS) in the prior year where TVAAS data is available.
 - (i) Public virtual schools shall continue to comply with class size and case load requirements for special education as defined in State Board Policy 3.206. Public virtual schools shall review individual teacher's student caseloads, and shall consult with the teacher when determining class size and student caseloads, to ensure that teachers can meet the needs of students, including students with disabilities, as determined by the Individuals with Disabilities Education Act (20 U.S.C. §§ 1400 et seq.), Section 504 of the Rehabilitation Act (29 U.S.C. §§ 701 et seq.), and any student's IEP.

- (ii) Public virtual schools shall maintain accurate records and monitor compliance with class size requirements.
- (c) Public virtual schools shall comply with all compulsory attendance requirements and shall monitor and report daily attendance as required in T.C.A. § 49-6-3007, including:
 - 1. Monitoring and taking daily student attendance, which shall include seeking and receiving daily visual, verbal, and/or written confirmation of student participation in six and one-half (6½) hours of instructional time per day using multiple methods of confirming student attendance. Multiple methods of confirming student attendance include two (2) or more of the following:
 - (i) Students participating in a phone call with a teacher, with parent or legal guardian support as appropriate for the age of the student;
 - (ii) Students participating in synchronous virtual instruction;
 - (iii) Students completing work in a learning management system;
 - (iv) Students submitting work via hard-copy or virtual formats; or
 - (v) Other method the LEA identifies as appropriate to track individual student participation in instructional activities.
 - 2. Each LEA shall develop and implement procedures for determining an excused versus unexcused absence, the internal attendance tracking system to be used, and how the LEA will communicate attendance policies and/or procedures to parents and/or legal guardians and students.
 - 3. The reporting of attendance to the Department must be via the LEA's student information system, utilizing the attendance code set by the Department of Education.
 - 4. The LEA establishing the public virtual school is required to implement the LEA's progressive truancy intervention plan, as required by T.C.A. § 49-6-3009 and State Board Rule 0520-01-02-.17, for students enrolled in the virtual school and report truancy to the juvenile court having jurisdiction over that student in compliance with state law.
- (d) On or before August 1 of each year, the public virtual school shall notify all LEAs of the enrollment of students residing within another LEA's jurisdiction. LEAs shall be notified within two (2) weeks when changes occur relative to students residing within the LEA's jurisdiction.
- (e) Once a student has been accepted by and enrolled in a public virtual school, it shall be the responsibility of the LEA that has established the public virtual school to maintain enrollment of that student until such a time as the student is withdrawn by the parent or guardian or withdrawn from the virtual school in accordance with the LEA's policy. If the student is withdrawn, the public virtual school shall send transcripts and other student records to the receiving school in a timely manner.
- (f) Public virtual schools and the LEA establishing a public virtual school shall maintain accurate records regarding the operation and compliance of the public virtual school and shall be subject to periodic inspection by the Department of Education as specified in Rule 0520-01-02-.01 and T.C.A. § 49-1-201. The LEA and the public virtual school shall comply with requests for information from the Department in a timely manner.
- (g) Public virtual schools and LEAs establishing a public virtual school shall comply with the enrollment requirements and limitations established in T.C.A. § 49-16-211.
- (h) An LEA shall close a virtual school if the school meets either of the criteria at T.C.A. § 49-16-

213(b)(1).

- (i) The LEA of a virtual school identified for closure pursuant to T.C.A. § 49-16-213(b)(1) shall:
 - 1. Notify the virtual school in writing of the possibility of closure thirty (30) days prior to seeking a resolution for closure.
 - (i) The LEA may send the written notice by email, U.S. mail, or another written method adopted by the LEA.
 - (ii) The notification must include information on the following:
 - (I) The reason(s) for the possible closure;
 - (II) The process by which the virtual school may request a review by the department to verify the accuracy of the data used to make the closure determination; and
 - (III) The inability to enroll additional students in the virtual school after the date of the notification.
 - 2. Notify the virtual school no later than ten (10) days after the LEA adopts a resolution to close the virtual school.
 - 3. Provide written notice to the parents or legal guardians of all students enrolled in the virtual schools of the closure within one (1) calendar week from the date of the resolution adopted pursuant to T.C.A. § 49-16-213(b)(1). The LEA may send the written notice by email, U.S. mail, or another written method adopted by the LEA, provided the notice is sent to the parent or guardian directly. The notices should not be sent home with students.
 - 4. Provide written notice to the parents or legal guardians of all students enrolled in the virtual school of other options for enrollment within thirty (30) calendar days from the date on which the LEA determines that the school meets a closure criterion. The LEA may send the written notice by email, U.S. mail, or another written method adopted by the LEA, provided the notice is sent to the parent or guardian directly. The notices should not be sent home with students.
 - 5. If applicable, ensure that the contracted nonprofit or for-profit virtual school provider transfers student records to the LEA or to the school to which the virtual student transfers according to T.C.A. § 49-6-3001(c)(1)(B)(i). Student records shall not be withheld by the contracted provider.
- (j) If an LEA is required to close a public virtual school pursuant to T.C.A. § 49-16-213(b), the LEA shall notify the Department on a form and manner determined by the Department.
- (k) Information shall include, at a minimum, the following:
 - 1. The name of the public virtual school that was closed; and
 - 2. The legal name of each nonprofit or for-profit vendor that operated or managed the public virtual school;
 - 3. Any name under which each vendor does business; and
 - 4. The school year in which the public virtual school will close.

(2) Virtual Education Programs

- (a) Virtual education programs may be established in accordance with T.C.A. §§ 49-16-101 – 49-16-105 and this Rule. A “virtual education program” means a course or series of courses offered through the use of technology by an LEA or public charter school to provide students a broader range of educational opportunities through effective use of technology. Providing students with a broader range of educational opportunities includes any of the following:
 - 1. Academic remediation or enrichment or providing students access to a wider range of courses.
 - 2. Continuity of educational service for students who are homebound pursuant to State Board Rule 0520-01-02-.10 or State Board Rule 0520-01-09-.07.
 - 3. Continuity of educational service for students who are quarantined pursuant to State Board Rule 0520-01-13-.01.
 - 4. Continuity of educational service for students enrolled in an alternative school pursuant to State Board Rule 0520-01-02-.09.
- (b) Virtual education programs must be comprised of individual courses accessed by students in an entirely virtual setting; however, teachers of virtual education program courses may meet with students in-person for non-instructional time, such as office hours.
- (c) Remote instruction via a virtual education program shall not constitute the majority of a student’s total instructional time per school semester unless the student meets one of the following criteria:
 - 1. The student is temporarily receiving all the student’s instruction via a virtual education program pursuant to paragraph (2)(a)2. or (2)(a)4. of this Rule;
 - 2. The student is taking coursework virtually, so the student may participate in a work-based learning program or internship that takes place during regular school hours;
 - 3. The student is accessing Advanced Placement (AP) courses or similar advanced coursework virtually; or
 - 4. The student is taking virtual coursework for purposes of credit recovery.
- (d) A student may participate in a virtual education program without enrolling in a virtual school; provided, however, that the student must be enrolled at the school where the student receives the majority of the student’s instruction each school year.
- (e) The criteria for student participation in a virtual education program shall be at the discretion of the LEA or public charter school where the student is enrolled or zoned to attend; provided that a student may participate in a virtual education program within another LEA if permitted by the out-of-district enrollment policy of the receiving LEA.
- (f) Each LEA and public charter school offering a virtual education program shall maintain attendance policies and procedures for determining when a student is present in a course offered via the virtual education program, including plans for seeking and receiving daily periodic visual, verbal, and/or written confirmation of student participation in the courses offered within a virtual education program using multiple methods of confirming student attendance. Multiple methods of confirming attendance include two (2) or more of the following:
 - 1. Students participating in a phone call with a teacher, with parent or legal guardian support as appropriate for the age of the student;
 - 2. Students participating in synchronous virtual instruction;
 - 3. Students completing work in a learning management system;

4. Students submitting work via hard-copy or virtual formats; or
 5. Other method the LEA or public charter school identifies as appropriate.
- (g) Each LEA and public charter school shall develop procedures for determining an excused versus unexcused absence, the internal attendance tracking system to be used, and how the LEA or public charter school will communicate attendance policies and/or procedures to parents and/or legal guardians and students.
- (h) The reporting of attendance to the Department must be via the LEA or public charter school's student information system, utilizing the attendance code set by the Department.
- (i) Classes offered via a virtual education program shall comply with the class size requirements set forth in T.C.A. § 49-1-104(h) and class size and case load requirements for special education as defined in State Board Policy 3.206. Instruction provided virtually by a non-virtual public school, including a public charter school, pursuant to the LEA's or public charter school's approved continuous learning plan in accordance with State Board Rules Chapter 0520-01-17 shall be considered a virtual education program for purposes of compliance with T.C.A. § 49-1-104(h).
- (j) Accountability
1. The results of student assessments for courses taken as part of a virtual education program and other accountability measures will be attributed to the school where the student is enrolled.
 2. Promotion, certificates, and diplomas for a student taking courses as part of a virtual education program shall be determined and issued by the school where the student is currently enrolled.
- (k) Each LEA or public charter school offering a virtual education program shall:
1. Ensure there is a teacher of record for each virtual education program course who is properly endorsed and licensed to teach in Tennessee in compliance with state law, State Board Rules Chapter 0520-02-03, and State Board Policy 5.502. For purposes of virtual education programs, teacher of record means the teacher who:
 - (i) Provides instruction for the course based on the Tennessee Academic Standards;
 - (ii) Ensures student progress toward the Tennessee Academic Standards;
 - (iii) Monitors the physical safety and well-being of students enrolled in the course;
 - (iv) Verifies attendance and reports student course grades to the school where the student receives the majority of instruction; and
 - (v) If the teacher is employed by the LEA or public charter school, claims instructional time for instructionally available students.
 2. Ensure that all teachers employed by the LEA or public charter school serving as teacher of record for coursework within the virtual education program are evaluated annually pursuant to T.C.A. § 49-1-302 and State Board Rules Chapter 0520-02-01.
 3. Ensure teachers provide instruction utilizing state-approved textbooks and instructional materials in alignment with state law, unless a waiver has been granted pursuant to T.C.A. § 49-6-2206 or § 49-13-111.

4. Ensure participating students have access to instructional materials, technology such as a computer and printer that may be necessary for participation in the virtual program, and an internet connection.
5. Ensure that students with special needs, including students with disabilities and limited English proficiency, are not excluded from enrolling and participating in virtual education programs and receive all services required by the student's Individualized Education Program (IEP), Section 504 Plan, or Individual Learning Plan (ILP).
6. Establish a virtual education program policy that contains the following:
 - (i) Student eligibility and participation requirements, including interventions for students struggling to maintain eligibility requirements, and a process for removing students from virtual education program courses who fail to maintain eligibility requirements and placing them into a comparable in-person course.
 - (ii) An articulated enrollment agreement for students from another LEA or public charter school to access virtual education program courses, if the LEA or public charter school chooses to allow such arrangements.

Authority: T.C.A. §§ 49-1-104, 49-1-201, 49-16-101, et seq., and 49-16-201, et seq.; Public Chapter 652 of 2020; and Public Chapter 905 of 2026. Administrative History: Original rule certified June 10, 1974. Amendment filed June 30, 1975; effective July 30, 1975. Amendment filed July 15, 1976; effective August 16, 1976. Amendment filed October 3, 1985; effective January 14, 1986. Amendment filed January 17, 1986; effective April 15, 1986. Amendment filed May 28, 1986; effective June 27, 1986. Amendment filed August 26, 1986; effective November 29, 1986. Repeal and new rule filed March 16, 1992; effective June 29, 1992. Amendment filed April 28, 1992; effective July 29, 1992. Amendment filed September 1, 1992; effective December 29, 1992. Amendment filed January 21, 1994; effective May 31, 1994. Amendment filed April 29, 1996; effective August 28, 1996. Amendment filed January 14, 1997; effective May 30, 1997. Amendment filed April 27, 1998; effective August 28, 1998. Amendment filed July 13, 1998; effective November 27, 1998. Amendment filed November 18, 1998; effective March 30, 1999. Amendment filed April 28, 2000; effective August 28, 2000. Amendment filed October 31, 2002; effective February 28, 2003. Amendment filed March 31, 2003; effective July 29, 2003. Amendment filed June 30, 2003; effective October 28, 2003. Amendment filed June 30, 2005; effective October 28, 2005. Amendments filed December 28, 2005; effective April 28, 2006. Amendments filed September 6, 2013; effective February 28, 2014. Amendment filed April 6, 2015; effective July 5, 2015. Amendments filed October 25, 2017; effective January 23, 2018. Amendments filed March 20, 2018; to have been effective June 18, 2018. However, on May 24, 2018, the Government Operations Committee filed a 5-day stay; new effective date June 23, 2018. Amendments filed January 11, 2019; effective April 11, 2019. Amendments filed August 20, 2020; effective November 18, 2020. Amendments filed November 30, 2020; effective February 28, 2021. Emergency rule filed July 9, 2021; effective through January 5, 2022. Emergency rule expired effective January 6, 2022, and the rule reverted to its previous status. Amendments filed December 14, 2021; effective March 14, 2022. 2024. Amendments filed March 25, 2025; effective June 23, 2025.

AMENDMENT

Amend State Board of Education Rule 0520-01-13-.03, so that as amended it shall read:

RULES OF THE STATE BOARD OF EDUCATION

CHAPTER 0520-01-13 SCHOOL AND STUDENT HEALTH SERVICES

0520-01-13-.03 HEALTH CARE PROCEDURES IN A SCHOOL SETTING.

- (1) Pursuant to T.C.A. § 49-50-1602, any health care procedure a student is not capable or competent to perform must be performed by a licensed health care professional in accordance with applicable guidelines of their respective regulatory boards. A physician's orders and parental authorization are required for any health care procedures performed by a licensed health care professional in the school setting. The written parental authorization shall be kept in the student's school records.
- (2) All health care procedures, including the administration of medication, shall be conducted in accordance with the Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting produced by the Department of Education and the Department of Health.
- (3) Any child with acute or chronic health issues should have a health assessment completed by a registered nurse.
 - (a) As warranted by the child's condition or diagnosis, an Individual Health Plan (IHP) will be completed by the registered nurse.
 - (b) The IHP shall include:
 1. Emergency care procedures;
 2. A nursing assessment;
 3. Physician's orders; and
 4. Parental authorization.
 - (c) A school nurse employed or contracted by the LEA shall be responsible for updating and maintaining each IHP.
- (4) School nursing staff and any other school personnel, including transportation personnel, who perform or assist with health care procedures, which may involve bloodborne pathogens must receive annual training on bloodborne pathogens, be offered the Hepatitis B vaccine, have appropriate cleaning supplies, and be supplied with gloves.
- (5) Administration of Medication.
 - (a) Each LEA shall adopt procedures for the safe, effective, and efficient administration of medications at school consistent with the requirements of this rule.
 - (b) Medications administered at school should be limited to those required during school hours, which are necessary to maintain the student's health and those needed in the event of an emergency.

- (c) For all prescription and non-prescription drugs, a written request shall be obtained from the parent or guardian requesting that medication be given during school hours. The request must include the parent's or guardian's name and phone number in case of emergency. It is the parents' or guardians' responsibility to ensure that the written request and medication are brought to the school. Local school board policies related to "Zero Tolerance" may require all medications, prescription and non-prescription, be brought to school and delivered to appropriate or designated school personnel by a responsible adult.
 - (d) In the event a dosage is not administered as ordered, or any other medication error occurs, a Medication Error Form must be filled out and submitted to the appropriate administrative person in the local school district or routed per the protocol of a contracted agency. The school nurse and parent or legal guardian must be notified in the event of a medication error. Each school shall establish a procedure for providing communication with the parent or guardian regarding any problems with the administration of the medication.
- (6) Self-Administration of Medication.
- (a) If a student has been taught to perform his or her own health care procedure, including administration of medication, and does not need assistance, space must be made available for the student to perform this task. If a student is performing an invasive procedure, that student should have at a minimum a bi-annual nursing assessment of competency and proficiency as well as an IHP. Every attempt should be made on an individual basis to allow a child who is independent to continue self-management.
 - 1. In accordance with T.C.A. § 49-50-1601, a student diagnosed with pancreatic insufficiency or cystic fibrosis may be permitted to self-manage prescribed pancreatic enzyme therapy in the manner directed by the licensed healthcare provider without additional assistance or direction. With written authorization from the healthcare provider and parent, a student with pancreatic insufficiency or cystic fibrosis shall be allowed to carry and self-administer prescribed pancreatic enzymes.
 - 2. Each LEA shall permit possession and self-administration of a prescribed, metered dosage asthma-reliever inhaler by any student with asthma if the student's parent or guardian:
 - (i) Provides to the school written authorization for student possession and self-administration of the inhaler; and
 - (ii) Provides a written statement from the prescribing health care practitioner that the student suffers from asthma and has been instructed in self-administration of the prescribed, metered dosage asthma-reliever inhaler and provides the name and purpose of the medication, the prescribed dosage, the time or times the prescribed inhaler is to be regularly administered, as well as any additional special circumstances under which the inhaler is to be administered, and the length of time for which the inhaler is prescribed. The statements shall be kept on file in the office of the school nurse or school administrator.
 - (iii) The permission for self-administration of the prescribed, metered dosage asthma-reliever inhaler shall be effective for the school year in which it is granted and must be renewed each following school year. The LEA may suspend or revoke the student's possession and self-administration privileges if the student misuses the inhaler or makes the inhaler available for usage by any other person.
 - (iv) A student granted permission to possess and use a metered dosage asthma-reliever inhaler may possess and use the prescribed, metered dose asthma-reliever inhaler when at school, at a school-sponsored activity, or before or after normal school activities while on school properties, including school-sponsored child care or after-school programs.

3. A student with anaphylaxis is entitled to possess and self-administer prescription anaphylaxis medication while on school property or at a school-related event or activity in compliance with the requirements of T.C.A. § 49-50-1602.
4. Upon written request of the parent or guardian, and if included in the student's medical management plan and in the IHP, a student with diabetes shall be permitted to perform blood glucose checks, administer insulin, treat hypoglycemia and hyperglycemia, and otherwise attend to the care and management of the student's diabetes in any area of the school or school grounds and at any school-related activity, and shall be permitted to possess on the student's person at all times all necessary diabetes monitoring and treatment supplies, including sharps.

(7) Assistance with Self-Administration of Medication.

- (a) A local board of education may permit an employee or a person under contract with the board to assist in the self-administration of medications under the following conditions:
 1. The student is competent to self-administer nonprescription or prescription medication with assistance;
 2. The student's condition, for which the medication is authorized or prescribed, is stable;
 3. The self-administration of each dose of the medication is properly documented and the documentation easily retrievable. Documentation shall include date, time, dosage, route, and the signature of the person assisting the student in self-administration;
 4. School personnel assisting in the self-administration of medications are properly trained by a registered nurse.
 5. The Guidelines for Use of Health Care Professionals and Health Care Procedures in a School Setting, produced by the Department of Education and the Department of Health, are followed; and
 6. The student's parent or guardian has provided permission in writing for school personnel to assist with the self-administration of medications.
- (b) The individual assisting with medication self-administration must visually observe the student self-administer the medication or, in the case of a cognitively competent but physically challenged student, perform that portion of self-administration for which the student is physically incapable.
- (c) Nursing supervision shall be provided to school personnel assisting with the self-administration of medication to ensure local school board policies and state guidelines are being followed.
- (d) School personnel who volunteer under no duress or pressure and who have been properly trained may administer glucagon in emergency situations and may administer insulin to a student based on the student's IHP. However, if a public school nurse is available and on site, the nurse shall provide this service to the student.
 1. Training provided to school personnel on the administration of glucagon and insulin shall be repeated annually, and competencies shall be documented at least twice a year in the employee's personnel file.
- (e) School personnel who volunteer under no duress or pressure and who have been properly trained may administer epinephrine to respond to any student believed to be having a life-threatening allergic or anaphylactic reaction, even if a student does not have an individual epinephrine prescription or has not been previously diagnosed with a life-threatening allergy. If a public school nurse is available and on site, the nurse shall provide this service to the student.

The LEA's supply of epinephrine shall be under a standing protocol from a physician licensed to practice medicine in all its branches.

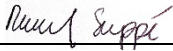
(8) Storage of Medication.

- (a) School personnel who volunteer under no duress or pressure and who have been properly trained may administer anti-seizure medications, including diazepam gel, to a student in an emergency situation based on that student's IHP.
 - 1. If a school nurse is available, on-site, and able to reach the student within the time limit for administration specified in the IHP, then the nurse shall provide this service to the student.
 - 2. All volunteers trained to administer anti-seizure medications shall also be trained in cardiopulmonary resuscitation (CPR).
 - 3. At least one (1) school employee shall serve as a witness on any occasion a volunteer administers anti-seizure medication during an emergency situation, unless a witness is not available within the time limit for administration specified in the IHP.

Authority: T.C.A. §§ 49-1-302, 49-50-1601 and 49-50-1602. Administrative History: Original rules filed May 3, 2018; effective August 1, 2018. Repeal and new rule filed January 7, 2021; effective April 7, 2021.

I certify that the information included in this filing is an accurate and complete representation of the intent and scope of rulemaking proposed by the agency.

Date: 08/28/26

Signature: 

Name of Officer: Rachel Suppé

Title of Officer: General Counsel

Department of State Use Only

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Tre Hargett
Secretary of State

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