

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-01-12
EDUCATION OF INCARCERATED STUDENTS**

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0520-01-12-.01 SCOPE OF RULES.

- (1) Each Local Education Agency (LEA) shall be responsible for providing educational services to general education students detained in Juvenile Detention Centers located in the LEA's jurisdiction.
- (2) A Juvenile Detention Center shall be considered within an LEA's jurisdiction when the Juvenile Detention Center is within the geographic boundaries of the LEA, and the LEA can appropriately serve the age or grade level of the student located at the Juvenile Detention Center. In the event the Juvenile Detention Center is located within the geographic boundaries of an LEA that cannot appropriately serve the age or grade level of the students incarcerated, the Center shall be within the jurisdiction of the LEA serving the county in which the Center is located. In the event of any dispute between LEAs, the Department of Education shall determine which LEA is responsible for providing educational services.
- (3) These rules shall apply to general education students only. Students eligible for services under the Individuals with Disabilities Education Act (IDEA) will continue to be served through the IDEA Amended and Restated Interagency Agreement.
- (4) Educational services may be provided directly by the LEA, through contract, or through other methods deemed appropriate by the LEA.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.02 DEFINITIONS.

- (1) "Center" means a Juvenile Detention Center as defined in T.C.A § 37-5-501 and licensed by the Department of Children's Services under T.C.A. § 37-5-502.
- (2) "Commissioner" means the Commissioner of the Tennessee Department of Education.
- (3) "Department" means Tennessee Department of Education.
- (4) "ESP" means an individualized Educational Service Plan, which shall be developed jointly by the home Local Education Agency and the receiving Local Education Agency.
- (5) "Home LEA" means the Local Education Agency in which the incarcerated student was enrolled at the time of the student's placement into the Center.

(Rule 0520-01-12-.02, continued)

- (6) "Instructional Day" means a day when the receiving local education agency is in session and providing classroom instruction based on the receiving local education agency's instructional calendar.
- (7) "LEA" means Local Education Agency.
- (8) "Student" means a youth detained in a Center.
- (9) "Receiving LEA" means the LEA in which the Center is located or the LEA providing educational services to students held in a Center outside of their home LEA.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.03 NOTIFICATIONS AND TRANSFER OF RECORDS.

- (1) Once a student has been held in a Center outside of their home LEA for seventy-two (72) hours, the Center shall notify in writing the home LEA, the receiving LEA, and the Department and provide the name of the student incarcerated, the location of incarceration, and the date the student was incarcerated.
- (2) Students held in a Center outside of their home LEA shall remain enrolled in the home LEA for the purpose of generating BEP funding pursuant to guidelines developed by the Department.
- (3) Once a student has been held in a Center outside of his or her home LEA for five (5) instructional days, the receiving LEA shall request the student's transcripts from the home LEA.
- (4) The home LEA shall ensure the student's educational records are received by the receiving LEA no later than the student's tenth (10th) instructional day at the Center.
- (5) No later than the student's fifteenth (15th) instructional day in the Center, the receiving LEA shall work with the home LEA to develop an ESP for the student.
- (6) No later than the student's twentieth (20th) instructional day in the Center, the receiving LEA shall ensure that the student begins receiving educational services in accordance with the ESP.
- (7) When a student receiving general educational services is transferred out of the Center, the Center shall notify the Department and provide the number of instructional days the student was held.
- (8) The Department shall transfer an amount equal to the per pupil state and local funds generated and required through the Basic Education Program (BEP) from the home LEA to the receiving LEA for the length of instructional days a student was held.
- (9) Upon a student's return to his or her home LEA, the receiving LEA shall return all educational records back to the home LEA.
- (10) If a student held in a Center is enrolled in a charter school, the authorizing LEA shall be the home LEA. The charter school shall work with the home LEA to ensure all requirements regarding the transfer of records and funding are met.

(Rule 0520-01-12-.03, continued)

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.04 BASIC EDUCATIONAL SERVICES, TESTING REQUIREMENTS.

- (1) The minimum length of the school day for students shall be four (4) hours.
- (2) Instruction shall be provided by a teacher holding a valid Tennessee teacher license as provided in T.C.A. Title 49, Chapter 5.
- (3) For students held in a Center outside their home LEA, the receiving LEA shall consult with the Center on how the receiving LEA may best provide basic educational services in, at a minimum, English Language Arts and Mathematics for the student.
- (4) Pursuant to the federal *Every Student Succeeds Act*, each Center shall comply with the following testing requirements:
 - (a) Each student shall complete a nationally norm-referenced pre-test approved by the Department, no later than the student's fifth (5th) instructional day at the Center.
 - (b) Each student shall complete a benchmark assessment at least every four (4) weeks the student remains incarcerated in the Center.
 - (c) The receiving LEA shall be responsible for ensuring the required tests are administered.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018. Amendments filed December 12, 2018; effective March 12, 2019.

0520-01-12-.05 CALCULATION OF FUNDS.

- (1) The Department shall calculate the funds to be transferred from the home LEA to the receiving LEA.
- (2) These funds shall be an amount equal to the per pupil state and local funds generated and required through the BEP received by the home LEA on a prorated daily basis for the length of the student's incarceration. These funds shall be used for the student's education.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.06 POINTS OF CONTACT.

- (1) The Department, the Department of Children's Services, the receiving LEA, and the home LEA shall each establish a primary point of contact to resolve issues arising under these rules. The receiving LEA's and home LEA's primary point of contact shall be the person currently filling the Attendance Officer position unless the LEA designates another position. Any designation shall be done in writing and sent to the Commissioner for approval.
- (2) The Commissioner or Commissioner's designee shall maintain a list of all the primary points of contact designated in paragraph (1) of this Rule.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.07 SECURITY.

- (1) The Center shall be responsible for providing a secure setting for the education of students. This space shall be adequate in size and conducive to instruction for the number of students required to be educated at the Center.
- (2) The Center shall supply appropriate staff to ensure the safety of students and receiving LEA staff in the Center.
- (3) Any security decision with respect to student or staff safety shall be within the purview of the Center's director or their designee.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.

0520-01-12-.08 MONITORING AND MEDIATION.

- (1) The Department of Children's Services, along with the Department, will regularly monitor the Center to ensure the Center's compliance with the terms of these rules.
- (2) The Department shall monitor the receiving LEA, home LEA, and the Center in order to ensure that there are appropriate educational services being offered at the Center.
- (3) The receiving LEA, home LEA, and the Center shall make any documentation or records available to the Department upon request.
- (4) If a dispute arises under these Rules, the dispute shall be mediated by the Commissioner or Commissioner's designee. The Commissioner's or Commissioner's designee's decision with regard to any mediation shall be considered a final and binding decision.

Authority: T.C.A. § 49-6-3023. **Administrative History:** Original rule filed January 10, 2018; effective April 10, 2018.