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# Rulemaking Hearing Rule(s) Filing Form

Rulemaking Hearing Rules are rules filed after and as a result of a rulemaking hearing (Tenn. Code Ann. § 4-5-205).

Pursuant to Tenn. Code Ann. § 4-5-229, any new fee or fee increase promulgated by state agency rule shall take effect on July 1, following the expiration of the ninety (90) day period as provided in § 4-5-207. This section shall not apply to rules that implement new fees or fee increases that are promulgated as emergency rules pursuant to § 4-5-208(a) and to subsequent rules that make permanent such emergency rules, as amended during the rulemaking process. In addition, this section shall not apply to state agencies that did not, during the preceding two (2) fiscal years, collect fees in an amount sufficient to pay the cost of operating the board, commission or entity in accordance with § 4-29-121(b).

<b>Agency/Board/Commission:</b>	Department of Intellectual and Developmental Disabilities
<b>Division:</b>	Tennessee Early Intervention System
<b>Contact Person:</b>	Richard R. Prybilla
<b>Address:</b>	315 Deaderick Street, UBS Tower, 8 <sup>th</sup> Floor, Nashville, TN
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**Revision Type (check all that apply):**

- Amendment  
 New  
 Repeal

**Rule(s)** (ALL chapters and rules contained in filing must be listed here. If needed, copy and paste additional tables to accommodate multiple chapters. Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below. Please enter only **ONE** Rule Number/Rule Title per row.)

Chapter Number	Chapter Title
0465-04-01	Tennessee's Early Intervention System
Rule Number	Rule Title
0465-04-01-.01	General Regulations. Adoption By Reference
0465-04-01-.02	Definitions
0465-04-01-.03	Lead Agency
0465-04-01-.04	Data Collection and Records
0465-04-01-.05	Individualized Family Service Plan (IFSP)
0465-04-01-.06	Procedural Safeguards

Place substance of rules and other info here. Please be sure to include a detailed explanation of the changes being made to the listed rule(s). Statutory authority must be given for each rule change. For information on formatting rules go to <https://sos.tn.gov/products/division-publications/rulemaking-guidelines>.

Chapter 0465-04-01  
Tennessee's Early Intervention System

Chapter 0520-01-10 is being transferred to new Chapter 0465-04-01 and amended to read as follows

0465-04-01-.01 General Regulations. Adoption By Reference.

The State Department of Intellectual and Developmental Disabilities adopts by reference the Compilation of Federal Regulations at 34 C.F.R. Part 303 in their entirety unless otherwise provided herein as the policies and procedures for administration of special education early intervention programs and services in the state. The regulations are available from Tennessee's Early Intervention Systems (TEIS), Tennessee Department of Intellectual and Developmental Disabilities, UBS Tower, 8<sup>th</sup> Floor, 315 Deaderick Street, Nashville, Tennessee 37243, or on the internet by accessing the Department of Intellectual and Developmental Disabilities' website at <http://tn.gov/DIDD/teis>.

Authority: T.C.A. §§ 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).

0465-04-01-.02 Definitions.

(1) Developmental Delay for Infants and Toddlers.

(a) General.

Infants and toddlers with disabilities eligible for TEIS services shall be those children from birth to age three, inclusive, who:

1. Have been evaluated in accordance with appropriate procedures for early intervention services; and
2. As a result of the evaluation, a multidisciplinary team has determined that the child meets the criteria for Tennessee's definition of Developmental Delay.

(b) Developmental Delay Criteria. The infant or toddler must meet one of the following:

1. The child is experiencing developmental delays, as measured by appropriate diagnostic instruments, administered by qualified professionals, indicating that the child is:
  - (i) Functioning at least twenty-five percent (25%) below his/her chronological age in two or more of the following developmental areas:
    - (I) Cognitive development;
    - (II) Physical development, including vision and hearing;
    - (III) Communication development;
    - (IV) Social/emotional development; and/or
    - (V) Adaptive development; or
  - (ii) Functioning at least forty percent (40%) below his/her chronological age in one of the developmental areas listed in subparagraph 1(i)(I-V) above;

or

- (iii) The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, i.e., known, obvious, or diagnosable condition such as sensory losses and severe physical impairments. Examples include, but are not limited to:
  - (I) Hearing loss that can be verified or estimated to be significant as indicated through an audiological evaluation;
  - (II) Visual loss, which can be verified or estimated to be significant; for example, cataracts, retinopathy of prematurity, or dysfunction of the visual cortex;
  - (III) Neurological, muscular, or orthopedic impairment which prevents the development of other skills; for example, spina bifida, cerebral palsy, autism, epilepsy;
  - (IV) Organic conditions or syndromes which have known significant consequences; for example, tuberous sclerosis, hydrocephalus, muscular dystrophy, fetal alcohol syndrome;
  - (V) Chromosomal, metabolic, or endocrine abnormalities; for example, Down Syndrome; Klinefelter Syndrome, Turner Syndrome, hypothyroidism; or
  - (VI) Prematurity, as defined by Tennessee's eligibility criteria for premature infants; or
- (iv) The child has been determined eligible based on informed clinical opinion because the use of standardized instruments does not accurately reflect the child's developmental status and the child does not have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(2) Developmental Therapy.

Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:

- (a) Family training, counseling, and home visits, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development; and
- (b) Special instruction including:
  - (i) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
  - (ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the Individualized Family Service Plan (IFSP) for the infant or toddler with a disability;
  - (iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and
  - (iv) Working with the infant or toddler with a disability to enhance the child's development.

2, 2019).

0465-04-01-.03 Lead Agency.

- (1) The Tennessee Department of Intellectual and Developmental Disabilities is designated by the Governor as lead agency for TEIS and is responsible for the administration of the State's early intervention system.
- (2) The Tennessee Department of Intellectual and Developmental Disabilities, in accordance with Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. § 1431 (Part C), *et. seq.* and state interagency agreements, shall be responsible for:
  - (a) The general administration and supervision of programs that receive funding under IDEA Part C to provide services to eligible infants and toddlers and their families; and
  - (b) Assigning financial responsibility among appropriate agencies for early intervention services.
- (3) The Tennessee Department of Intellectual and Developmental Disabilities shall be responsible for the supervision and monitoring of programs including:
  - (a) Supervising and monitoring programs and activities that comprise the early intervention system, including agencies, institutions, and organizations which provide early intervention services to children eligible under Part C and their families, for compliance with IDEA Part C and the provisions of federal and state regulations, policies and procedures, whether or not the programs or activities receive financial assistance under Part C of IDEA;
  - (b) Providing, or facilitating the provision of, technical assistance to those agencies, institutions, and organizations including self-evaluation, program planning and implementation;
  - (c) Enforcing obligations imposed on those agencies, institutions and organizations as required under these regulations; and
  - (d) Directing that deficiencies identified through monitoring be corrected.
- (4) Each agency receiving assistance under IDEA Part C shall:
  - (a) Submit financial and other written reports at the time and manner specified by TEIS; and
  - (b) Participate in periodic on-site monitoring visits conducted by TEIS.
- (5) The Tennessee Department of Intellectual and Developmental Disabilities shall utilize funds provided under IDEA Part C that are reasonable and necessary for administering the state early intervention system.
- (6) TEIS shall ensure that traditionally underserved groups, including minority, low-income, and rural families, are meaningfully involved in the planning and implementation of all components of the early intervention system and that these families have access to culturally competent services within their local geographical areas.
- (7) The lead agency shall utilize contractual arrangements as a method of securing required early intervention services for children and families. Each contractor will be required by the terms of its contract to adhere to all applicable state and federal requirements for the provision of services to Part C eligible children and their families.
  - (a) All early intervention services provided for eligible children and their families shall meet the definition of early intervention services and shall be provided in a manner that is consistent with state and federal standards for services under IDEA Part C.
  - (b) Procurement of early intervention services by service providers shall conform to the

applicable agency procurement policies.

- (c) Individuals or organizations seeking to provide early interventions services shall meet the requirements and standards established by the lead agency.

Authority: T.C.A. §§ 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).

0465-04-01-.04 Data Collection And Records.

- (1) The Tennessee Department of Intellectual and Developmental Disabilities shall maintain a data system that contains the early intervention records of infants and toddlers served by TEIS. The department shall maintain a process for collecting, managing, analyzing, and reporting statewide data regarding the operational status of TEIS.

Authority: T.C.A. §§ 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).

0465-04-01-.05 Individualized Family Service Plan (IFSP).

- (1) IFSP Meetings.
  - (a) The service coordinator shall communicate with the family and other IFSP team members in scheduling the IFSP meeting. Once scheduled, written notice of the meeting shall be provided to the family and other participants, no later than then (10) days prior to the scheduled meeting date to ensure that they will be able to participate.
  - (b) Participants' involvement in the IFSP meeting shall be reflected on the IFSP document by personal signature or by noting the method of participation.

Authority: T.C.A. §§ 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).

0465-04-01-.06 Procedural Safeguards.

- (1) Mediation.
  - (a) Mediations shall be conducted by mediators employed by the secretary of state and in accordance with Tennessee Department of Intellectual and Developmental Disabilities policy.
  - (b) TEIS shall provide an appropriate location for the mediation and shall be responsible for the administrative costs of the mediation.
- (2) Due Process.
  - (a) Due process cases shall be heard by administrative law judges employed by the secretary of state and in accordance with Tennessee Department of Intellectual and Developmental Disabilities policy.
  - (b) Due process cases shall be conducted pursuant to 34 C.F.R. §§ 303.440 – 449.
  - (c) TEIS shall provide an appropriate location for the hearing, a court reporter, an original copy of the transcript for the administrative law judge, a copy of the transcript for the parents, and shall be responsible for the administrative costs of the hearing.
  - (d) Any party aggrieved by the findings and decision of a due process hearing has the right to bring a civil action with respect to the complaint presented. The action may be brought in any state court of competent jurisdiction in accordance with Tenn. Code Ann. § 4-5-322 or in a district court of the United States without regard to the amount in controversy.

Authority: T.C.A. §§ 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).

\* If a roll-call vote was necessary, the vote by the Agency on these rulemaking hearing rules was as follows:

Board Member	Aye	No	Abstain	Absent	Signature (if required)

I certify that this is an accurate and complete copy of rulemaking hearing rules, lawfully promulgated and adopted by the Tennessee Department of Intellectual and Developmental Disabilities on 11/06/2020 and is in compliance with the provisions of T.C.A. § 4-5-222.

I further certify the following:

Notice of Rulemaking Hearing filed with the Department of State on: 07/29/2020

Rulemaking Hearing(s) Conducted on: (add more dates). 09/28/2020

Date: 12/8/2020

Signature: 

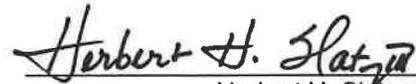
Name of Officer: Brad Turner

Title of Officer: Commissioner

Agency/Board/Commission: Tennessee Department of Intellectual and Developmental Disabilities

Rule Chapter Number(s): 0465-04-01

All rulemaking hearing rules provided for herein have been examined by the Attorney General and Reporter of the State of Tennessee and are approved as to legality pursuant to the provisions of the Administrative Procedures Act, Tennessee Code Annotated, Title 4, Chapter 5.

  
Herbert H. Slatery III  
Attorney General and Reporter  
3/2/2021  
Date

**Department of State Use Only**

Filed with the Department of State on: 3/15/2021

Effective on: 6/13/2021

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Secretary of State  
Division of Publications

  
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Secretary of State

**Public Hearing Comments**

One copy of a document that satisfies T.C.A. § 4-5-222 must accompany the filing.

Public hearing comments are attached.

## **Regulatory Flexibility Addendum**

Pursuant to T.C.A. §§ 4-5-401 through 4-5-404, prior to initiating the rule making process, all agencies shall conduct a review of whether a proposed rule or rule affects small business.

The proposed rules will not impact small businesses.

## **Impact on Local Governments**

Pursuant to T.C.A. §§ 4-5-220 and 4-5-228 “any rule proposed to be promulgated shall state in a simple declarative sentence, without additional comments on the merits of the policy of the rules or regulation, whether the rule or regulation may have a projected impact on local governments.” (See Public Chapter Number 1070 (<http://publications.tnsosfiles.com/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly.)

The proposed rules will have no impact on local governments.

## Additional Information Required by Joint Government Operations Committee

All agencies, upon filing a rule, must also submit the following pursuant to T.C.A. § 4-5-226(i)(1).

- (A)** A brief summary of the rule and a description of all relevant changes in previous regulations effectuated by such rule;

The rule adopts federal regulations of part C Individuals with Disabilities Act (IDEA) in full. States that participate in the part C program for infants and toddlers with developmental disabilities must adhere to the federal regulations in order to receive federal funding. In addition, the rule defines the population of children that will be eligible for services, the definition of the developmental therapy service as modified from the federal regulation, and dispute resolution for the state. The primary purpose for this rule change was to change the lead agency from the TN Department of Education to the TN Department of Intellectual and Developmental Disabilities. Content changes were not made.

- (B)** A citation to and brief description of any federal law or regulation or any state law or regulation mandating promulgation of such rule or establishing guidelines relevant thereto;

The Individuals with Disabilities Education Act (IDEA) provides federal funding to states that agree to implement certain policies and practices with respect to children with disabilities. Under Part C of the IDEA, states that accept this funding must have a policy that appropriate early intervention services are available to qualifying children. 20 U.S.C. 1434. Several other sections of the IDEA and its implementing regulations require states to implement other policies and procedures set forth in this rule. See, e.g., 20 U.S.C. 1435(a)(2) (states must have a policy "in effect and that ensures that appropriate early intervention service. . ."); 34 C.F.R. § 303.430 (mandating state adopt written procedures for the resolution of administrative complaints). Further, state law mandates the implementation of a statewide early intervention system which includes "all components prescribed by the IDEA." Tenn. Code Ann. § 49-10-702.

- (C)** Identification of persons, organizations, corporations or governmental entities most directly affected by this rule, and whether those persons, organizations, corporations or governmental entities urge adoption or rejection of this rule;

Parents of children, ages birth to age three, with developmental delay, Head Start, AIM-HI TN, TN Dept of Education, TN Dept. of Health, Children's Services, Human Services, Education, Arc, Disability Coalition, TNAAP, Therapy and Professional Organizations.

- (D)** Identification of any opinions of the attorney general and reporter or any judicial ruling that directly relates to the rule or the necessity to promulgate the rule;

None have been identified.

- (E)** An estimate of the probable increase or decrease in state and local government revenues and expenditures, if any, resulting from the promulgation of this rule, and assumptions and reasoning upon which the estimate is based. An agency shall not state that the fiscal impact is minimal if the fiscal impact is more than two percent (2%) of the agency's annual budget or five hundred thousand dollars (\$500,000), whichever is less;

State and local government expenditures and revenue collections are not expected to change from the promulgation of these rules.

- (F)** Identification of the appropriate agency representative or representatives, possessing substantial knowledge and understanding of the rule;

Gabrielle Madison, Diana Burton

- (G)** Identification of the appropriate agency representative or representatives who will explain the rule at a scheduled meeting of the committees;

Gabrielle Madison, Diana Burton

- (H)** Office address, telephone number, and email address of the agency representative or representatives who will explain the rule at a scheduled meeting of the committees; and

UBS Tower, 8th Floor, 315 Deaderick St., Nashville, TN 37243  
[Gabrielle.Madison@tn.gov](mailto:Gabrielle.Madison@tn.gov); 615-532-4160  
[Diana.Burton@tn.gov](mailto:Diana.Burton@tn.gov); 865-609-3561

(I) Any additional information relevant to the rule proposed for continuation that the committee requests.

TEIS does not have any additional information.

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
		<p><i>Per T.C.A. § 4-5-222(a)(1)(C), similar comments may be grouped together and addressed in one response. Per T.C.A. § 4-5-222(a)(1)(C), comments can be summarized.</i></p>	<p><i>Per T.C.A. § 4-5-222(a)(1)(C), the response to specific comments shall include the reasons for agency adoption or rejection of any specific changes suggested by the comments.</i></p>
<p>1.)</p>	<p>0465-04-01-.02 Definitions.</p> <p>(2) Developmental Therapy.</p> <p>Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:</p> <p>(a) Family training, counseling, and home visits, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child’s development;</p>	<p>Subsection (2) Developmental Therapy for infants and toddlers with disabilities eligible for TEIS service includes in subsection (a) family training, counseling and home visits, as appropriate by (<i>emphasis added</i>) <b>social workers, psychologists, and other qualified personnel</b> to assist the family.</p> <p>TPA would specifically request that Senior Psychological Examiners as defined in Tennessee Code Annotated Title 63, Chapter 11, Part 2 be included in the list of qualified providers. Senior Psychological Examiners must have at least two academic graduate years of training in psychology including a master’s degree and operate under the same scope of practice as a psychologist and should certainly be included if social workers and other masters-level practitioners are eligible to provide services under this program.</p> <p>Further, we would ask that the Department specifically define what type of mental health professionals are included in the language “other qualified providers” and to set forth the process for obtaining Departmental approval to participate in the delivery of services to this population.</p>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make specific reference to Senior Psychological Examiners in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which provide a non-exhaustive list of “qualified personnel.” See 34 C.F.R. § 303.13(c), (d). The regulations also define “qualified personnel.” 34 C.F.R. § 303.31. Any mental health professional that meets the applicable definition constitutes “other qualified personnel,” including a Senior Psychological Examiner. Tennessee will not be modifying these definitions.</p> <p>Current state qualifications for the provision of developmental therapy are located in the TEIS application to contract and within contracts. Applications will be posted later in the year.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
2.)	<p>0465-04-01-.02 Definitions.</p> <p>(1) Developmental Delay for Infants and Toddlers.</p> <p>(a) General.</p> <p>Infants and toddlers with disabilities eligible for TEIS services shall be those children from birth to age three, inclusive, who:</p> <p>2. As a result of the evaluation, a multidisciplinary team has determined that the child meets the criteria for Tennessee’s definition of Developmental Delay.</p>	<ul style="list-style-type: none"> <li>•What is the definition of a multidisciplinary team?</li> <li>•In practice, Tennessee appears to use a very limited definition of multidisciplinary team, i.e. an evaluator and information from child’s doctor. It would be helpful to expand the team to include those who directly impact the reason for referral, such as speech pathologist for child suspected to language delay.</li> <li>•Other states (Hawaii, Missouri, Virginia, etc.) have OT/PT/SLP/ABAs administering domain specific assessments or screenings, and/or providing professional clinical opinion to help determine eligibility for services.</li> </ul>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to include this definition in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which define “multidisciplinary.” 34 C.F.R. § 303.24. There is no need to expand this definition in the Rule as someone such as a speech pathologist could be part of a multidisciplinary team under the applicable Federal Regulations.</p>
3.)	<p>0465-04-01-.02 Definitions.</p> <p>(1) Developmental Delay for Infants and Toddlers.</p> <p>(b) Developmental Delay Criteria. The infant or toddler must meet one of the following:</p> <p>1. The child is experiencing developmental delays, as measured by appropriate diagnostic instruments, administered by qualified professionals, indicating that the child is:</p> <p>(iii) The child has a diagnosed physical or mental condition that has a high</p>	<p>Although these are only examples, we are serving numerous children with neonatal abstinence syndrome (NAS) who are automatically eligible for services and we feel it is important for this to be identified in rule making.</p>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make specific reference to neonatal abstinence syndrome in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which include examples of diagnoses. 34 C.F.R. § 303.21(a). NAS falls within these diagnoses.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
	<p>probability of resulting in developmental delay, i.e., known, obvious, or diagnosable condition such as sensory losses and severe physical impairments. Examples include, but are not limited to:</p> <p>(IV) Organic conditions or syndromes which have known significant consequences; for example, tuberous sclerosis, hydrocephalus, muscular dystrophy, fetal alcohol syndrome;</p>		
<p>4.)</p>	<p>0465-04-01-.02 Definitions.</p> <p>(1) Developmental Delay for Infants and Toddlers.</p> <p>(b) Developmental Delay Criteria. The infant or toddler must meet one of the following:</p> <p>1. The child is experiencing developmental delays, as measured by appropriate diagnostic instruments, administered by qualified professionals, indicating that the child is:</p> <p>(iii) The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, i.e., known, obvious, or diagnosable condition such as sensory losses and severe physical impairments. Examples include, but are not limited to:</p>	<ul style="list-style-type: none"> <li>•Eligibility Criteria states a “premature infant” but no age as far as what cut off would be to be considered infant (for example-if the child is 18 months old can they still be eligible if they were born at 28 weeks?).</li> <li>•There is no clarification in eligibility criteria about child being re-assessed at the age of 2 years old if they qualified only based on prematurity (current procedure in place)</li> </ul> <p><a href="https://www.dropbox.com/s/nazxr2ax9ouvaz/TEIS_Premature_Infant_Criteria.pdf?dl=0">h:ps://www.dropbox.com/s/nazxr2ax9ouvaz/TEIS_Premature_Infant_Criteria.pdf?dl=0</a></p>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>A child born with the diagnosis of prematurity would be eligible per the Premature Infant Eligibility Criteria.</p> <p><a href="https://www.dropbox.com/s/nazxr2ax9ouvaz/TEIS_Premature_Infant_Criteria.pdf?dl=0">https://www.dropbox.com/s/nazxr2ax9ouvaz/TEIS_Premature_Infant_Criteria.pdf?dl=0</a></p> <p>If a child is eligible per the premature criteria, the child is re-evaluated for eligibility at age 2 per Operations Manual for Field Staff.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
	(VI) Prematurity, as defined by Tennessee’s eligibility criteria for premature infants;		<a href="file:///C:/Users/ca17651/AppData/Local/Temp/TEIS%20Operations%20Manual%20for%20Field%20Staff.pdf">file:///C:/Users/ca17651/AppData/Local/Temp/TEIS%20Operations%20Manual%20for%20Field%20Staff.pdf</a>
5.)	<p>0465-04-01-.02 Definitions.</p> <p>(1) Developmental Delay for Infants and Toddlers.</p> <p>(b) Developmental Delay Criteria. The infant or toddler must meet one of the following:</p> <p>1. The child is experiencing developmental delays, as measured by appropriate diagnostic instruments, administered by qualified professionals, indicating that the child is:</p> <p>(iv) The child has been determined eligible based on informed clinical opinion because the use of standardized instruments does not accurately reflect the child’s developmental status and the child does not have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.</p>	<ul style="list-style-type: none"> <li>•EIRAs feel this is an important tool for eligibility that is not being utilized.</li> <li>•What professionals would be accepted for informed clinical opinion? (MD, SLP, OT, PT, ABA?)</li> <li>•This option appears to be grayed out/not able to be marked in the data system (TEIDS).</li> </ul>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>Professionals who perform and are involved in the eligibility determination of the child would be used for informed clinical opinion. Informed clinical opinion is utilized for eligibility determination, as needed.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
6.)	<p>0465-04-01-.02 Definitions.</p> <p>(2) Developmental Therapy.</p> <p>(a) Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:</p> <p>1. Family training, counseling, and home visits, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child’s development;</p> <p><i>*Numbering was incorrect on Notice of Rulemaking Hearing. It will be corrected as above in final version of rules.</i></p>	<ul style="list-style-type: none"> <li>•Counseling is not a term we feel falls within our scope of practice since early interventionists who provide developmental therapy are not licensed counselors.</li> <li>•“Social Workers, psychologists, and other qualified personnel” does not accurately reflect the professionals currently providing developmental therapy.</li> <li>•Previous contracts required staff to have a degree in early childhood special education, early childhood education, child and family studies (child development), early intervention, or related fields. Related field means a degree in deaf education or visual disabilities, special education K-12, elementary education, communication disorders and speech language pathology. Social Work, nursing, and psychology degrees are not considered related fields.</li> <li>•We have been given guidance that we can now hire early interventionists to provide developmental therapy who have degrees in psychology and social worker since the degree requirement has been expanded.</li> </ul>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make the requested changes in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which define both “family training, counseling, and home visits” and “qualified personnel.” 34 C.F.R. § § 303.13(b), 303.31. The Regulations also provide a non-exhaustive list of “qualified personnel.” See 34 C.F.R. § 303.13(c), (d). This list expressly includes nurses, social workers, and psychologists.</p>
7.)	<p>0465-04-01-.02 Definitions.</p> <p>(2) Developmental Therapy.</p> <p>(a) Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:</p>	<ul style="list-style-type: none"> <li>•It appears the federal definition of family training and special instruction have been combined in the state of Tennessee. It may be important to consider if the state is meeting federal guidelines.</li> </ul>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
	<p>2. Special instruction including:</p> <p><i>*Numbering was incorrect on Notice of Rulemaking Hearing. It will be corrected as above in final version of rules.</i></p>	<ul style="list-style-type: none"> <li>•It seems like family training aligns more with our current service delivery model (Family Guided Routines Based Interventions)</li> <li>•Within the last 5 years, there has been a great reduction in funding to center-based special instruction. The smaller classrooms, provided through this setting, are very valuable to children, especially those with Autism, and provide for a natural environment with same age peers who do not have a development delay or disability. Many childcare centers cannot accommodate a child with significant disabilities due to medical or behavioral concerns, or too large of class sizes.</li> </ul>	<p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make the requested changes in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which define both “family training” and “special instruction.” 34 C.F.R. § 303.13(b)(3), (14).</p> <p>Comments taken into consideration.</p>
<p><b>8.)</b></p>	<p>0465-04-01-.02 Definitions.</p> <p>(2) Developmental Therapy.</p> <p>(a) Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:</p> <p>2. Special instruction including:</p> <p>(i) The design of learning environments and activities that promote the infant’s or toddler’s acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;</p>	<ul style="list-style-type: none"> <li>•While Tennessee has focused on routines, federal language includes activities. Children learn through both routines and planned activities. Families often engage in activities as well as routine.</li> <li>•The learning environment is the child’s natural environment which could include the child’s home, childcare center, or community (grocery store, park, doctor’s office). Justification is required for services not provided in the natural environment including clinic based services.</li> <li>•The design of activities would include the child’s routines since these are daily activities that would provide the opportunity for interventions to be embedded.</li> </ul>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make the requested changes in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which define “family training,” “special instruction,” and “natural environments.” 34 C.F.R. § 303.13(b)(3), (14); 303.26.</p> <p>Comments taken into consideration.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	<b>Rule</b>	<b>Comment</b>	<b>Response</b>
	<i>*Numbering was incorrect on Notice of Rulemaking Hearing. It will be corrected as above in final version of rules.</i>		
<b>9.)</b>	<p>0465-04-01-.02 Definitions.</p> <p>(2) Developmental Therapy.</p> <p>(a) Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:</p> <p>2. Special instruction including:</p> <p>(ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the Individualized Family Service Plan (IFSP) for the infant or toddler with a disability;</p> <p><i>*Numbering was incorrect on Notice of Rulemaking Hearing. It will be corrected as above in final version of rules.</i></p>	<ul style="list-style-type: none"> <li>•Our current service delivery model (FGRBI) focuses on the natural activities within a child’s routine to embed interventions. When we focus on routines only, we may be missing learning opportunities that are included in the federal language.</li> <li>•Is this a reference to center-based services?</li> </ul>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make the requested changes in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which define “family training,” “special instruction,” and “natural environments.” 34 C.F.R. § § 303.13(b)(3), (14); 303.26.</p>
<b>10.)</b>	<p>0465-04-01-.02 Definitions.</p> <p>(2) Developmental Therapy.</p> <p>(a) Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:</p>	<ul style="list-style-type: none"> <li>•This certainly is most in alignment with Tennessee’s delivery model, which is valuable. We may be omitting other opportunities to enhance early learning by restricting our model to one Page 3 choice. Special instruction also occurs within childcare centers where the early</li> </ul>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
	<p>2. Special instruction including:</p> <p>(iii) Providing families with information, skills, and support related to enhancing the skill development of the child;</p> <p><i>*Numbering was incorrect on Notice of Rulemaking Hearing. It will be corrected as above in final version of rules.</i></p>	<p>interventionist works with the childcare center staff.</p>	<p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make the requested changes in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which define both “family training” and “special instruction.” 34 C.F.R. § 303.13(b)(3), (14).</p> <p>Comments taken into consideration.</p>
<p><b>11.)</b></p>	<p>0465-04-01-.02 Definitions.</p> <p>(2) Developmental Therapy.</p> <p>(a) Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:</p> <p>2. Special instruction including:</p> <p>(iv) Working with the infant or toddler with a disability to enhance the child’s development.</p> <p><i>*Numbering was incorrect on Notice of Rulemaking Hearing. It will be corrected as above in final version of rules.</i></p>	<p>•In our current service delivery model (FGRBI), early interventionists providing developmental therapy need to be able to work directly with the infant or toddler during coaching for demonstration with narration and guided practice with feedback. Coaching should not be seen as hands-off service delivery.</p> <p>Additional Resource for definitions:</p> <p><a href="https://www.decdocs.org/position-statement-roleof-special">https://www.decdocs.org/position-statement-roleof-special</a></p>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make the requested changes in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which define both “family training” and “special instruction.” 34 C.F.R. § 303.13(b)(3), (14).</p> <p>Comments taken into consideration.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
12.)	<p>0465-04-01-.05 Individualized Family Service Plan (IFSP)</p> <p>(1) IFSP Meetings.</p> <p>(a) The service coordinator shall communicate with the family and other IFSP team members in scheduling the IFSP meeting. Once scheduled, written notice of the meeting shall be provided to the family and other participants, no later than then (10) days prior to the scheduled meeting date to ensure that they will be able to participate.</p>	<ul style="list-style-type: none"> <li>•There is concerns that not all IFSP team members are being invited to participate.</li> <li>•It seems like some IFSP meetings are occurring without prior written notice and families are signing that they waived this right even though the Service Coordinator could have contacted family prior to 10 days to arrange the meeting.</li> </ul>	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There is no need to make the requested changes in the Rule. Tennessee fully adopted Individuals with Disabilities Education Act (IDEA) part C Federal Regulations, which list who must be included in IFSP Team meetings, require that all participants receive notice of IFSP Team meetings, and that now changes may be made to IFSPs without prior written notice. 34 C.F.R. § § 303.342, 303.343, and 303.421.</p>
13.)	n/a – General question	Have there been any updates to eligibility categories or criteria since the Rules were adopted in 2013? If so, they are not reflected in these rules since there are no changes from the original document.	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>There have been no official changes to eligibility categories or criteria. However, there have been regular review and updates to the diagnosis list. There was a major update with the switch from ICD-9 to ICD-10 and is reviewed and updated regularly (2-3 times per year).</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

Rule	Comment	Response
14.) n/a – General question	Will there be a published response to submitted comments?	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>Yes, the document will be publicly available.</p>
15.) n/a – General question	Has TEIS and DIDD made a decision about telehealth?	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>Decisions regarding service delivery will be made by TEIS and DIDD senior leadership. Decisions will be publicly communicated through all avenues available.</p>
16.) n/a – General question	Has the Governor made an executive decision about future insurance companies covering all types of therapy visits? Can you share the liability insurance available for cross infections of COVID? What happens when a therapist is exposed and is out two weeks due to exposure from patient families?	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
			<p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>Executive decisions will be communicated publicly through all avenues available.</p>
17.)	n/a – General question	What do we do after Sept 30?	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>TEIS and DIDD senior leadership provide ongoing guidance. Guidance will be publicly communicated through all avenues available.</p>
18.)	n/a – General question	Please share the possibility of a second wave COVID for TEIS and DIDD protocol.	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>TEIS and DIDD senior leadership will provide ongoing up-to-date guidance and information that will be publicly communicated through all available avenues.</p>

**Comments/Responses from September 28, 2020, Rulemaking Hearing for TEIS Rules**

	Rule	Comment	Response
19.)	n/a – General question	When will agencies receive more information about DIDD monitoring and any new requirements for training? Some of us are already licensed under DIDD Preschool.	<p><b>Enter change(s) being made to rule as a response to the public comment <u>or</u> that no change will be made.</b></p> <hr/> <p>No change will be made.</p> <p><b>Enter reason(s) for agency adoption or rejection of any specific changes suggested by the comments.</b></p> <hr/> <p>TEIS and DIDD senior leadership will provide ongoing up-to-date guidance and information that will be publicly communicated through all available avenues.</p>

RULES  
OF  
STATE BOARD OF EDUCATION TENNESSEE DEPARTMENT OF INTELLECTUAL AND  
DEVELOPMENTAL DISABILITIES

CHAPTER ~~0520-01-100465-04-01~~  
TENNESSEE'S EARLY INTERVENTION SYSTEM

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**~~0520-01-100465-04-01-.01~~ GENERAL REGULATIONS. ADOPTION BY REFERENCE.**

The State ~~Board of Education~~Department of Intellectual and Developmental Disabilities adopts by reference the Compilation of Federal Regulations at 34 C.F.R. Part 303 in their entirety unless otherwise provided herein as the policies and procedures for administration of special education early intervention programs and services in the state. The regulations are available from Tennessee's Early Intervention System (TEIS), Tennessee Department of ~~Education~~Intellectual and Developmental Disabilities, 740 ~~James Robertson Parkway~~315 Deaderick Street, Nashville, TN 37243, or on the internet by accessing the state ~~department of education's~~Department of Intellectual and Developmental Disabilities' website at <http://tn.gov/educationDIDD/teis>.

**Authority:** ~~T.C.A. §§ T.C.A. §§ 49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 (Education Improvement Act) 49-10-702, 331-303, 4-3-2708; 20U.S.C § 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).~~

**~~0520-01-100465-04-01-.02~~ DEFINITIONS.**

(1) Developmental Delay for Infants and Toddlers.

(a) General.

Infants and toddlers with disabilities eligible for TEIS services shall be those children from birth to age three, inclusive, who:

1. Have been evaluated in accordance with appropriate procedures for early intervention services, and
2. As a result of the evaluation, a multidisciplinary team has determined that the child meets the criteria for Tennessee's definition of Developmental Delay.

(b) Developmental Delay Criteria. The infant or toddler must meet one of the following:

1. The child is experiencing developmental delays, as measured by appropriate diagnostic instruments, administered by qualified professionals, indicating that the child is:
  - (i) Functioning at least twenty-five percent (25%) below his/her chronological age in two or more of the following developmental areas:
    - (I) Cognitive development;
    - (II) Physical development, including vision and hearing;

- (III) Communication development;
- (IV) Social/emotional development; and/or
- (V) Adaptive development; or
- (ii) Functioning at least forty percent (40%) below his/her chronological age in one of the developmental areas listed in subparagraph 1(i)(I-V) above; or
- (iii) The child has a diagnosed physical or mental condition that has a high probability of resulting in developmental delay, i.e., known, obvious, or diagnosable condition such as sensory losses and severe physical impairments. Examples include, but are not limited to:
  - (I) Hearing loss that can be verified or estimated to be significant as indicated through an audiological evaluation;
  - (II) Visual loss, which can be verified or estimated to be significant; for example, cataracts, retinopathy of prematurity, or dysfunction of the visual cortex;
  - (III) Neurological, muscular, or orthopedic impairment which prevents the development of other skills; for example, spina bifida, cerebral palsy, autism, epilepsy;
  - (IV) Organic conditions or syndromes which have known significant consequences; for example, tuberous sclerosis, hydrocephalus, muscular dystrophy, fetal alcohol syndrome;
  - (V) Chromosomal, metabolic, or endocrine abnormalities; for example, Down Syndrome, Klinefelter Syndrome, Turner Syndrome, hypothyroidism; or
  - (VI) Prematurity, as defined by Tennessee's eligibility criteria for premature infants;

or

- (iv) The child has been determined eligible based on informed clinical opinion because the use of standardized instruments does not accurately reflect the child's developmental status and the child does not have a diagnosed physical or mental condition that has a high probability of resulting in developmental delay.

(2) Developmental Therapy.

Developmental therapy for infants and toddlers with disabilities eligible for TEIS services includes:

- (a) Family training, counseling, and home visits, as appropriate, by social workers, psychologists, and other qualified personnel to assist the family of an infant or toddler with a disability in understanding the special needs of the child and enhancing the child's development; and
- (b) Special instruction including:

- (i) The design of learning environments and activities that promote the infant's or toddler's acquisition of skills in a variety of developmental areas, including cognitive processes and social interaction;
- (ii) Curriculum planning, including the planned interaction of personnel, materials, and time and space, that leads to achieving the outcomes in the Individualized Family Service Plan (IFSP) for the infant or toddler with a disability;
- (iii) Providing families with information, skills, and support related to enhancing the skill development of the child; and
- (iv) Working with the infant or toddler with a disability to enhance the child's development.

**Authority:** ~~T.C.A. §§ 49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 (Education Improvement Act) 49-10-702, 33-1-303, 4-3-2708, 68-5-905; 20 U.S.C. 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).~~

**0520-01-100465-04-01-.03 LEAD AGENCY.**

- (1) The Tennessee Department of ~~Education-Intellectual and Developmental Disabilities~~ is designated by the Governor as lead agency for TEIS and is responsible for the administration of the State's early intervention system.
- (2) The Tennessee Department of ~~EducationIntellectual and Developmental Disabilites~~, in accordance with Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. § 1431 (Part C), *et. seq.* and state interagency agreements, shall be responsible for:
  - (a) ~~the-The~~ general administration and supervision of programs that receive funding under IDEA Part C to provide services to eligible infants and toddlers and their families; and
  - (b) ~~assigning-Assigning~~ financial responsibility among appropriate agencies for early intervention services.
- (3) The Tennessee Department of ~~Education-Intellectual and Developmental Disabilities~~ shall be responsible for the supervision and monitoring of programs including:
  - (a) ~~supervising-Supervising~~ and monitoring programs and activities that comprise the early intervention system, including agencies, institutions, and organizations which provide early intervention services to children eligible under Part C and their families, for compliance with IDEA Part C and the provisions of federal and state regulations, policies and procedures, whether or not the programs or activities receive financial assistance under Part C of IDEA;
  - (b) ~~providingProviding~~, or facilitating the provision of, technical assistance to those agencies, institutions, and organizations including self-evaluation, program planning and implementation;
  - (c) ~~enforcing-Enforcing~~ obligations imposed on those agencies, institutions and organizations as required under these regulations; and
  - (d) ~~directing-Directing~~ that deficiencies identified through monitoring be corrected.
- (4) Each agency receiving assistance under IDEA Part C shall:

- (a) ~~submit~~ Submit financial and other written reports at the time and manner specified by TEIS; and
  - (b) ~~participate~~ Participate in periodic on-site monitoring visits conducted by TEIS.
- (5) The Tennessee Department of ~~Education~~ Intellectual and Developmental Disabilities shall utilize funds provided under IDEA Part C that are reasonable and necessary for administering the state early intervention system.
- (6) TEIS shall ensure that traditionally underserved groups, including minority, low-income, and rural families, are meaningfully involved in the planning and implementation of all components of the early intervention system and that these families have access to culturally competent services within their local geographical areas.
- (7) The lead agency shall utilize contractual arrangements as a method of securing required early intervention services for children and families. Each contractor will be required by the terms of its contract to adhere to all applicable state and federal requirements for the provision of services to Part C eligible children and their families.
- (a) All early intervention services provided for eligible children and their families shall meet the definition of early intervention services and shall be provided in a manner that is consistent with state and federal standards for services under IDEA Part C.
  - (b) Procurement of early intervention services by service providers shall conform to the applicable agency procurement policies.
  - (c) Individuals or organizations seeking to provide early intervention services shall meet the requirements and standards established by the lead agency.

**Authority:** ~~T.C.A. §§ 49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 (Education Improvement Act) 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. (Dec. 2, 2019).~~

**~~0520-01-100465-04-01~~-04 DATA COLLECTION AND RECORDS.**

- (1) The Tennessee Department of ~~Education~~ Intellectual and Developmental Disabilities shall maintain a data system that contains the early intervention records of infants and toddlers served by TEIS. The department shall maintain a process for collecting, managing, analyzing, and reporting statewide data regarding the operational status of TEIS.

**Authority:** ~~T.C.A. §§ 49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 (Education Improvement Act) 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. (Dec 2, 2019).~~

**~~0520-01-100465-04-01~~-05 INDIVIDUALIZED FAMILY SERVICE PLAN (IFSP).**

- (1) IFSP Meetings.
- (a) The service coordinator shall communicate with the family and other IFSP team members in scheduling the IFSP meeting. Once scheduled, written notice of the meeting shall be provided to the family and other participants, no later than ten (10) days prior to the scheduled meeting date to ensure that they will be able to participate.

- (b) Participants' involvement in the IFSP meeting shall be reflected on the IFSP document by personal signature or by noting the method of participation.

**Authority:** ~~T.C.A. §§ 49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 (Education Improvement Act) 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).~~

**~~0520-01-100465-04-01~~-06 PROCEDURAL SAFEGUARDS.**

- (1) Mediation.
  - (a) Mediations shall be conducted by mediators employed by the secretary of state ~~pursuant to Tenn. Code Ann. § 49-10-605~~ and in accordance with Tennessee Department of Intellectual and Developmental Disabilities policy.
  - (b) TEIS shall provide an appropriate location for the mediation and shall be responsible for the administrative costs of the mediation.
- (2) Due Process.
  - (a) Due process cases shall be heard by administrative law judges employed by the secretary of state ~~pursuant to Tenn. Code Ann. § 49-10-606~~ and in accordance with Tennessee Department of Intellectual and Developmental Disabilities policy.
  - (b) Due process cases shall be conducted pursuant to 34 C.F.R. §§ 303.440 – 449.
  - (c) TEIS shall provide an appropriate location for the hearing, a court reporter, an original copy of the transcript for the administrative law judge, a copy of the transcript for the parents, and shall be responsible for the administrative costs of the hearing.
  - (d) Any party aggrieved by the findings and decision of a due process hearing has the right to bring a civil action with respect to the complaint presented. The action may be brought in any state court of competent jurisdiction in accordance with Tenn. Code Ann. § 4-5-322 ~~and Tenn. Code Ann. § 49-10-601~~ or in a district court of the United States without regard to the amount in controversy.

**Authority:** ~~T.C.A. §§ 49-1-302, 49-1-607, 49-5-108, 49-5-108(d)(2), 49-5-5201, 49-5-5602, 49-5-5605, and Public Chapter No. 535 (Education Improvement Act) 49-10-702, 33-1-303, 4-3-2708; 20 U.S.C. § 1431, et seq.; Exec. Order No. 10 (Dec. 2, 2019).~~