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Sequence Number: 04-06-18
Rule ID(s): 6737
File Date: 4/4/18
Effective Date: 7/3/18

Proposed Rule(s) Filing Form

Proposed rules are submitted pursuant to Tenn. Code Ann. §§ 4-5-202, 4-5-207, and 4-5-229 in lieu of a rulemaking hearing. It is the intent of the Agency to promulgate these rules without a rulemaking hearing unless a petition requesting such hearing is filed within ninety (90) days of the filing of the proposed rule with the Secretary of State. To be effective, the petition must be filed with the Agency and be signed by ten (10) persons who will be affected by the amendments, or submitted by a municipality which will be affected by the amendments, or an association of ten (10) or more members, or any standing committee of the General Assembly. The agency shall forward such petition to the Secretary of State.

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).

Agency/Board/Commission:	State Board of Education
Division:	
Contact Person:	Elizabeth Taylor
Address:	Andrew Johnson Tower, 1 st Floor 710 James Robertson Pkwy Nashville, TN
Zip:	37243
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Email:	Elizabeth.Taylor@tn.gov

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 Please make sure that **ALL** new rule and repealed rule numbers are listed in the chart below.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
0520-04-03	Administrative Rules State Special Schools
Rule Number	Rule Title
0520-04-03-.01	Purpose
0520-04-03-.02	Standards of Eligibility for Admission to the Tennessee School for the Deaf and West Tennessee School for the Deaf
0520-04-03-.03	Duty Free Lunch at State Special Schools

AMENDMENTS

Chapter 0520-04-03 is amended by changing the language in the table of contents so that, as amended, it shall read:

**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-04-03
ADMINISTRATIVE RULES
STATE SPECIAL SCHOOLS**

TABLE OF CONTENTS

0520-04-03-.01	Standards of Eligibility for Admission to the Tennessee School for the Blind	0520-04-03-.03	Duty-Free Lunch at State Special Schools
0520-04-03-.02	Standards of Eligibility for Admission to the Tennessee School for the Deaf and West Tennessee School for the Deaf		

Rule 0520-04-03-.01, Purpose, is amended by changing the title and language so that as amended it shall read:

0520-04-03-.01 STANDARDS OF ELIGIBILITY FOR ADMISSION TO THE TENNESSEE SCHOOL FOR THE BLIND.

- (1) Students ages three (3) through twenty-one (21) who are residents of the state of Tennessee and who have a visual impairment, including both partial sight and blindness, even with correction, that adversely affects the student's educational performance shall be eligible for admission to the Tennessee School for the Blind.
- (2) A student who meets one (1) or more of the following visual impairments may be eligible for admission to the Tennessee School for the Blind:
 - (a) Visual acuity in the better eye or both with best possible correction:
 1. Legal blindness – 20/200 or less at distance and/or near; or
 2. Low vision – 20/70 or less at distance and/or near.
 - (b) Visual field restriction with both eyes:
 1. Legal blindness – remaining visual field of 20 degrees or less;
 2. Low vision – remaining visual field of 60 degrees or less; or
 3. Medical and educational documentation of progressive loss of vision, which may in the future affect the student's ability to learn visually.
 - (c) Other visual impairment, not perceptual in nature, resulting from a medically documented condition. (i.e. cortical visual impairment)
- (3) Students who have disabilities in addition to visual impairment shall be eligible for admission to the Tennessee School for the Blind.
- (4) The Director of Schools for the Tennessee School for the Blind may admit students who meet the eligibility criteria, provided:

- (a) The student has been evaluated and referred by his or her Individual Education Program (IEP) team, that includes a representative from the Tennessee School for the Blind, for services at the school as the most appropriate placement within the least restrictive environment;
- (b) The Tennessee School for the Blind has a program designed to meet the child's needs; and
- (c) A complete ophthalmological report for the student has been submitted.

Authority: T.C.A. §§ 49-10-701 and 49-10-801. **Administrative History:** Original rule filed August 26, 1986; effective November 29, 1986. Repeal and new rule filed March 16, 1992; effective June 29, 1992.

Rule 0520-04-03-.02, Standards of Eligibility for Admission to the Tennessee School for the Deaf and West Tennessee School for the Deaf, is amended by changing the language so that as amended it shall read:

0520-04-03-.02 STANDARDS OF ELIGIBILITY FOR ADMISSION TO THE TENNESSEE SCHOOL FOR THE DEAF AND WEST TENNESSEE SCHOOL FOR THE DEAF.

- (1) Students ages three (3) through twenty-one (21) who are residents of Tennessee and who have a hearing impairment that is so significant that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance, shall be eligible for admission to the Tennessee School for the Deaf and West Tennessee School for the Deaf.
- (2) A student who meets one (1) or more of the following hearing impairments may be eligible for admission to the Tennessee School for the Deaf or West Tennessee School for the Deaf:
 - (a) A permanent or fluctuating hearing threshold level evidenced by:
 - 1. An unaided hearing threshold level of 30 dB or greater based on the pure tone average of 500, 1000, and 2000 Hz in the better ear;
 - 2. A high frequency hearing threshold level of 30 dB or greater based on the pure tone average of 1000, 2000 and 3000 Hz;
 - 3. An unilateral hearing threshold level of 30 dB or greater, based on the pure tone average of 500, 1000, and 2000 Hz unaided; or
 - 4. An auditory evoked potential response evidencing permanent hearing loss at multiple frequencies equivalent to or in excess of the decibel hearing loss threshold criteria for pure tone audiometric testing specified above.
 - (b) A hearing threshold that interferes with progress in developmental skills or academic performance, social-emotional development, or linguistic and communicative skills.
 - (c) An inability to discriminate speech within the normal range, or a medical condition that prevents the child from processing spoken language auditorially in spite of normal hearing.
 - (d) Evidence of genetic deafness history in the student's family and early identification of progressive hearing loss.
- (3) Students with disabilities in addition to a hearing impairment shall be eligible for admission to the Tennessee School for the Deaf and West Tennessee School for the Deaf.
- (4) The Director of Schools for the Tennessee School for the Deaf and West Tennessee School for the Deaf may admit students who meet the eligibility criteria, provided:
 - (a) The student has been evaluated and referred by his or her Individual Education Program (IEP) team, that includes a representative from the Tennessee School for the Deaf or West Tennessee School for the Deaf, for services at the school as the most appropriate placement within the least restrictive environment; and

- (b) The school has a program designed to meet the child's needs and has space available.

Authority: T.C.A. §§ 49-10-701, 49-10-901, 49-10-902. **Administrative History:** Original rule filed August 26, 1986; effective November 29, 1986. Repeal and new rule filed March 16, 1992; effective June 29, 1992.

Rule 0520-04-03.03, Duty Free Lunch at State Special Schools, is amended by changing the language so that as amended it shall read:

0520-04-03-.03 DUTY-FREE LUNCH AT STATE SPECIAL SCHOOLS.

- (1) All teachers, grades kindergarten (K) through twelve (12), shall have a duty-free lunch period of at least the length of the student lunch period.
- (2) During the duty-free lunch period teachers shall have no other assigned responsibilities.

Authority: T.C.A. §§ 49-1-302(e)(2). **Administrative History:** Original rule filed March 16, 1992; effective June 29, 1992.

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

Board Member	Aye	No	Abstain	Absent	Signature (if required)
Bawcum	X				
Chancey	X				
Cobbins	X				
Edwards	X				
Ferguson	X				
Hartgrove	X				
Kim	X				
Rolston	X				
Tucker	X				
Wiseman	X				

I certify that this is an accurate and complete copy of proposed rules, lawfully promulgated and adopted by the Tennessee State Board of Education on 01/26/2018, and is in compliance with the provisions of T.C.A. § 4-5-222. The Secretary of State is hereby instructed that, in the absence of a petition for proposed rules being filed under the conditions set out herein and in the locations described, he is to treat the proposed rules as being placed on file in his office as rules at the expiration of ninety (90) days of the filing of the proposed rule with the Secretary of State.

Date: 3/16/18

Signature: [Handwritten Signature]

Name of Officer: Elizabeth Taylor

Title of Officer: General Counsel

Subscribed and sworn to before me on: 3-6-18

Notary Public Signature: [Handwritten Signature]

My commission expires on: 3-8-21



Agency/Board/Commission: Tennessee State Board of Education

Rule Chapter Number(s): 0520-04-03 Administrative Rules State Special Schools

All proposed 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

3/22/2018 Date

Department of State Use Only

Filed with the Department of State on: 4/4/18

Effective on: 7/3/18


Tre Hargett
Secretary of State

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PUBLICATIONS

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.

Not applicable

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://state.tn.us/sos/acts/106/pub/pc1070.pdf>) of the 2010 Session of the General Assembly)

This rule will not have an 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;

These amendments update and clarify the standards of eligibility for admission to the Tennessee School for the Blind (TSB), Tennessee School for the Deaf (TSD), and West Tennessee School for the Deaf (WTSD). In an effort to ensure all students are learning in school environments that provide the most appropriate placement within the least restrictive environment, the following changes were made to the rule:

- Clarified that students may be eligible for admission to TSB, TSD, and WTSD beginning at age three (3).
- Added additional criteria by which students may be eligible for admission to TSB, TSD, and WTSD
- Clarified that students with multiple disabilities (in addition to visual and/or hearing impairment) are eligible for admission to TSB, TSD, and WTSD
- Clarified that a student must be referred by his or her IEP team, which includes a representative from one of the state special schools

- (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;

T.C.A. §§ 49-10-801 and 49-10-901 provide the State Board of Education the authority to set policies and operating guidelines for the state special schools.

- (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;

Students and parents of students who are eligible for admission to a state special school, the Tennessee Department of Education, and the State Board of Education are most directly affected by this rule. Parents and students have neither urged adoption nor rejection. The State Board of Education and Department of Education urge adoption of this rule.

- (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;

N/A

- (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;

This promulgation of these amendments will not have a fiscal impact on a state or local government revenues and expenditures.

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

Elizabeth Taylor
Elizabeth.Taylor@tn.gov

Nathan James
Nathan.James@tn.gov

Elizabeth Fiveash
Elizabeth.Fiveash@tn.gov

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

Elizabeth Taylor
Elizabeth.Taylor@tn.gov

Nathan James
Nathan.James@tn.gov

Elizabeth Fiveash
Elizabeth.Fiveash@tn.gov

(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

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

N/A

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**RULES
OF
THE STATE BOARD OF EDUCATION**

**CHAPTER 0520-0-4-0-3
ADMINISTRATIVE RULES
-STATE SPECIAL SCHOOLS**

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0520-0-4-0-3-.03			<u>Duty-Free Lunch at State Special Schools</u>

0520-0-4-0-3-.01 STANDARDS OF ELIGIBILITY FOR ADMISSION TO THE TENNESSEE SCHOOL FOR THE BLIND.

- (1) Students ages three (3) through twenty-one (21) who are residents of the state of Tennessee and who have a visual impairment, including both partial sight and blindness, even with correction, that adversely affects the student's educational performance shall be eligible for admission to the Tennessee School for the Blind.
- (2) A student who meets one (1) or more of the following visual impairments may be eligible for admission to the Tennessee School for the Blind:
- (a) Visual acuity in the better eye or both with best possible correction:
1. Legal blindness – 20/200 or less at distance and/or near; or
 2. Low vision – 20/-70 or less at distance and/or near.
- (b) Visual field restriction with both eyes:
1. Legal blindness – remaining visual field of 20 degrees or less;
 2. Low vision – remaining visual field of 60 degrees or less; or
 3. Medical and educational documentation of progressive loss of vision, which may in the future affect the student's ability to learn visually.
- (c) Other visual impairment, not perceptual in nature, resulting from a medically documented condition. (i.e. cortical visual impairment)
- ~~Tennessee children ages 4-21 whose visual impairments are of such quality and magnitude that they are unable to see well enough to receive an appropriate education by using materials, equipment and supplies provided for children with normal vision shall be eligible for admission to the Tennessee School for the Blind. Eligibility for admission shall be determined by the Superintendent of the Tennessee School for the Blind and shall be based on the following criteria:~~
- (3) Students who have disabilities in addition to visual impairment shall be eligible for admission to the Tennessee School for the Blind.
- (4) The Ddirector of Sschools for the Tennessee School for the Blind may admit students who meet the eligibility criteria, provided:

(Rule 0530-4-3-.02, continued)

(a) The student has been evaluated and referred by his or her Individual Education Program (IEP) team, that includes a representative from the Tennessee School for the Blind, for services at the school as the most appropriate placement within the least restrictive environment;

(b) The Tennessee School for the Blind has a program designed to meet the child's needs; and

(c) A complete ophthalmological report for the student has been submitted.

(a) The child meets one or more of these visual requirements:

1. Visual acuity not better than 20/200 in the better eye with best correction.

2. A field defect in which the widest diameter of visual field subtends an angle no greater than 20 degrees.

3. Visual acuity not better than 20/100 supported by an ophthalmological statement that visual acuity is decreasing rapidly.

(b) The Tennessee School for the Blind has a program designed to meet the child's needs.

(c) The child has been evaluated and referred by his local school system for services at the school.

(2) All applications will be accompanied by a complete ophthalmological report. The visual findings of the ophthalmologist employed by the school shall be final.

Authority: T.C.A. §§ 49-10-701 and 49-10-801. **Administrative History:** Original rule filed August 26, 1986; effective November 29, 1986. Repeal and new rule filed March 16, 1992; effective June 29, 1992.

0520-04-0-3-.02 STANDARDS OF ELIGIBILITY FOR ADMISSION TO THE TENNESSEE SCHOOL FOR THE DEAF AND WEST TENNESSEE SCHOOL FOR THE DEAF.

(1) Students ages three (3) through twenty-one (21) who are residents of Tennessee and who have a hearing impairment that is so significant/severe that the child is impaired in processing linguistic information through hearing, with or without amplification, that adversely affects a child's educational performance, shall be eligible for admission to the Tennessee School for the Deaf and West Tennessee School for the Deaf.

(2) A student who meets one (1) or more of the following hearing impairments may be eligible for admission to the Tennessee School for the Blind/Deaf or West Tennessee School for the Deaf:

(a) A permanent or fluctuating hearing threshold level evidenced by:

1. An unaided hearing threshold level of 30 dB or greater based on the pure tone average of 500, 1000, and 2000 Hz 30dB or greater in the better ear;

2. A high frequency hearing threshold level of 30 dB or greater based on the pure tone average of 1000, 2000 and 3000 Hz;

(Rule 0530-4-3-.02, continued)

3. An unilateral hearing threshold level of 30 dB or greater, based on the pure tone average of 500, 1000, and 2000 Hz unaided; or
 4. An auditory evoked potential response evidencing permanent hearing loss at multiple frequencies equivalent to or in excess of the decibel hearing loss threshold criteria for pure tone audiometric testing specified above.
 - (b) A hearing threshold that interferes with progress in developmental skills or academic performance, social-emotional development, or linguistic and communicative skills.
 - (c) An inability to discriminate speech within the normal range, or a medical condition that prevents the child from processing spoken language auditorially in spite of normal hearing.
 - (d) Evidence of genetic deafness history in the student's family and early identification of progressive hearing loss.
- (3) Students with disabilities in addition to a hearing impairment shall be eligible for admission to the Tennessee School for the Deaf and West Tennessee School for the Deaf.
- (4) The Ddirector of Sschools for the Tennessee School for the Deaf and West Tennessee School for the Deaf may admit students who meet the eligibility criteria, provided:
- (a) The student has been evaluated and referred by his or her Individual Education Program (IEP) team, that includes a representative from the Tennessee School for the Deaf or West Tennessee School for the Deaf, for services at the school as the most appropriate placement within the least restrictive environment; and
 - (b) The school has a program designed to meet the child's needs and has space available.
- (1) ~~Tennessee children ages 4-21 (and 3 years old deaf) who are hearing impaired and who because of that impairment cannot be appropriately served in a local school district and whose parents or guardians are residents of the State of Tennessee shall be eligible for admission to the Tennessee School for the Deaf. Consideration for admission shall be on the referral by a local school system. Admission shall be determined on the basis of evaluations conducted by the Child Study Center at the Tennessee School for the Deaf, and will take into consideration the following criteria:~~
- (a) ~~A sensorineural hearing loss greater than 50db in the speech frequencies in the better ear.~~
 - (b) ~~Inability to discriminate speech normally (less than 80% with a hearing aid) through hearing alone as measured by a standardized test.~~
 - (c) ~~Ability to function in a group living and learning situation.~~
 - (d) ~~Available space.~~
 - (e) ~~Availability of an appropriate program.~~

Authority: T.C.A. §§ 49-10-701, 49-10-901, 49-10-902. **Administrative History:** Original rule filed August 26, 1986; effective November 29, 1986. Repeal and new rule filed March 16, 1992; effective June 29, 1992.

0520-0-4-0-3-.03 DUTY-FREE LUNCH AT STATE SPECIAL SCHOOLS.

(Rule 0530-4-3-.02, continued)

- (1) All teachers, grades kindergarten ~~(K through)~~ through twelve (12), shall have a duty-free lunch period of at least the length of the student lunch period.
- (2) During the duty-free lunch period teachers shall have no other assigned responsibilities.

Authority: T.C.A. §§ 49-1-302(e)(2). **Administrative History:** Original rule filed March 16, 1992; effective June 29, 1992.