

**RULES
OF
STATE BOARD OF EDUCATION
CHAPTER 0520-01-11
INDIVIDUALIZED EDUCATION ACCOUNTS
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0520-01-11-.02 DEFINITIONS.

(11) "Eligible student" means:

- (a) A resident of this state with any of the following disabilities listed in their individualized education program (IEP) as either their primary or secondary disability at the time of their application to the IEA Program and defined in the rules of the State Board of Education 0520-01-09-.02:
 - 1. Autism;
 - 2. Deaf-blindness;
 - 3. Hearing impairments;
 - 4. Intellectual disability;
 - 5. Orthopedic impairments;
 - 6. Traumatic brain injury; or
 - 7. Visual impairments.
- (b) Has an IEP in effect at the time the Department receives the request for participation in the program; and
- (c) Meets at least one (1) of the following requirements:
 - 1. Was previously enrolled in a Tennessee public school during the two (2) semesters immediately preceding the semester in which the student receives an IEA. For the purposes of these rules, prior two (2) full semesters of enrollment means that the student was counted in the enrollment figures for the LEA(s) for the entire school year as reported in the state's student information system.
 - 2. Has not previously attended a K-12 school in Tennessee, but is currently eligible to enroll in a kindergarten program in a public school in this state;

3. Has not previously attended a school in Tennessee during the two (2) semesters immediately preceding the semester in which the student receives an IEA, and is eligible to enroll in a public school in this state. When a student has an active IEP in another state and moves to Tennessee, the student shall submit a copy of the student's IEP from the student's previous out-of-state school to the Department as part of the application to participate in the IEA Program and inform the school district in which he/she resides that the student is enrolling in the IEA Program;
4. Received an IEA in the previous school year; or
5. If a student has an IEP prior to enrolling in kindergarten, the student will be eligible to receive an IEA without having to attend a Tennessee public school; however, the student shall register with the LEA in which they reside for purposes of calculating the amount of IEA funding the student would be eligible to receive.

0520-01-11-.10 APPEAL PROCEDURES.

- (1) Participating schools and providers may appeal the denial, suspension, or termination of the entity's participation in the IEA program, and a parent or student who has attained the age of majority may appeal a denial of determination of eligibility, preauthorization request, a denial of an expense paid for using IEA funds, or removal of the student from the IEA program pursuant to the following two (2) step appeal process:
 - (a) Step one (1): The appeal shall be on the form provided by the Department and shall be submitted to the commissioner of education within ten (10) business days of the receipt of notice denial, suspension, termination, and/or removal. Notice of application denial, suspension, termination, and/or removal shall be provided electronically and via first-class USPS mail and be deemed received three (3) business days after the date of postmark. Notice of other denials and pre-authorization requests, including, but not limited to, denials of expense pre-authorizations, shall be provided electronically and deemed received on the date the email notification was sent. The appeal shall be reviewed by the commissioner of education, or the commissioner's designee, and a decision issued within forty-five (45) calendar days.
 - (b) Step two (2): The account holder shall be notified of the commissioner's decision for the step one (1) appeal electronically and via first-class USPS. Such notice shall be deemed received three (3) business days after the date of postmark. An appeal of the commissioner's decision in step one (1) shall be filed with the commissioner by the account holder within thirty (30) days and shall conform to the Uniform Administrative Procedures Act (T.C.A. Title 4, Chapter 5).