
Residential Mental Health Facilities Rule 0520-01-20

The Background:

T.C.A. § 49-3-370 governs when and how state and local funding is allocated to licensed residential mental health facilities when Tennessee students are admitted. The statute was amended by Chapter 589 of the Public Acts of 2021 (PC 589) to authorize funding to be allocated to certain out-of-state residential mental health facilities when Tennessee students are admitted and certain conditions are met. PC 589 directs the State Board of Education to promulgate rules to establish procedures for approving educational programs or instructional services provided by out-of-state residential mental health facilities and for the allocation of funds.

This item creates the Residential Mental Health Facilities Rule Chapter 0520-01-20 as required by PC 589. The rule establishes thirteen conditions in alignment with PC 589 that must be met in order for an LEA to transfer BEP funds to an out-of-state residential mental health facility. The conditions include, but are not limited to,

- (1) the student is admitted to the facility under a signed, written order of a licensed medical physician based upon medical necessity,
- (2) there are no in-state facilities with the capacity to deliver the appropriate treatment to the student, and
- (3) the out-of-state facility is in a bordering state, serves at least fifteen (15) Tennessee students per year, and meets comparable educational, health, and safety requirements to in-state facilities.

State Board staff held a rulemaking hearing on December 16, 2021 to gather public feedback. No comments were offered.

Revisions between first and final reading include adding a definition of “capacity” to mean a bed available at a Tennessee residential mental health facility to provide the appropriate mental health treatment to a student at the time of the student’s admittance to an out-of-state-facility. Revisions also further detail an appeals process if an out-of-state facility loses its approval from the Department due to non-compliance.

The Fiscal Analysis Impact:

T.C.A. § 49-1-212 requires that the Department prepare a fiscal analysis of any policy, rule, or regulation proposed to the State Board of Education. This item has no financial impact on an LEA.

These rules will not impose any additional costs on the Department or LEAs. Instead, the statute and rules describe when BEP funding should be transferred from LEAs to residential mental health treatment facilities when a student is in the facility’s care.

The Recommendation:

The Department of Education recommends approval of this item on final reading. The SBE staff concurs with this recommendation.