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Individual Education Account Available for Students with Disabilities

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Effective Jan 1, 2016, Tennessee adopted T.C.A. §49-10-1401 et. seq., titled the Individualized Education Act. The program, sponsored by Senator Delores Gresham, R-Somerville, and Representative Debra Moody, R-Covington, was adopted by the General Assembly in 2015. The program will provide parents of eligible students with disabilities, grades K-12, the opportunity to apply for access to their child's Basic Education Program (BEP) funds for their child's educational purposes. Those funds can then be used to choose the educational opportunity that best meets their child's individual needs.

By participating, the student's parent(s) agree to assume full legal responsibility for their child's education and waive the child's rights to a public education and related services under the federal Individuals with Disabilities Education Act (IDEA). Once a child has accepted the IEA program benefits, he or she will no longer receive any services through the public school system, nor will they have an IEP or service plan through the public school system, including testing accommodations.

Parents will be responsible for providing their child's own TCAP or norm-referenced assessment in English language arts and math, and results must then be provided to the Tennessee Department of Education annually. Should the child seek to return to public school, the child's parents must request, in writing, an evaluation for eligibility and the school district shall treat it as an initial evaluation. Also, a Public School may, but is not required to, contract with IEA account holders to provide services to students in the IEA program.

School districts have four main responsibilities for students who reside in their district and are enrolled in the Individualized Education Account (IEA) program:

1. Appoint the IEA liaison for the school district. Each district appoints their liaison and the final list will be posted on the IEA website (link below). Parents are responsible for notifying the liaison of the student's enrollment before the first IEA payment is distributed but after the parent signs the IEA contract with the department.
2. Change the student's eligibility status in Easy IEP. Once enrolled, the special education personnel should generate an eligibility report-not eligible that reflects the following option: "The student is eligible for special education because he/she meets the State of Tennessee eligibility standards for [disability]; however, the student's parent/guardian is declining services.



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The student will not receive special education or related services.” The “notes” section of Easy IEP must indicate that the student is enrolled in the IEA program.

3. Report students enrolled in the IEA program in EIS. Each eligible student must be counted in the enrollment figures for the school district in which the students resides and is zoned to attend.
4. Re-enroll students and conduct initial evaluation for services if requested by parent. Before re-enrollment evaluation, the parent must notify the department and report which school the student will attend. School districts will begin receiving BEP funding for students who withdraw from the IEA program the day students enroll in the district and the district begins reporting them under the appropriate attendance code in EIS.

The Tennessee Department of Education is now accepting applications for the new IEA Program. Funding Disbursements will be made in four equal quarterly payments to an individualized education account, accessible through a pre-paid IEA debit card. Disbursements will be allocated in proportion to the BEP funds for the LEA in which the student resides minus the school’s administration fee. Once approved, the IEA funds can be used for a variety of approved expenses, including private school tuition to approved schools, tutoring, and educational therapies.

Eligibility is based on the following qualifications:

1. The student must be a Tennessee Resident with an active IEA in effect at the time of request for participation.
2. The student must also be either previously enrolled in a Tennessee Public School during the two semesters immediately preceding the semester in which the student receives an IEA, entering kindergarten, moved to Tennessee within six months prior to date of receiving an IEA, or received an IEA in the previous year.
3. The student must have one of the following disabilities:
 - a. Autism,
 - b. Deaf-blindness,
 - c. Hearing impairments,
 - d. Intellectual disability,
 - e. Orthopedic impairments,
 - f. Traumatic brain injury, and/or visual impairments.

The first IEA disbursements will be awarded in January 2017.
The application process is now open.

To apply, or learn more you can visit the IEA webpage at
<https://www.tn.gov/education/section/iea>

Clifton N. Miller and Erica R. Marino is available to consult with school system and other governmental entities regarding these and related matters.

This publication is a service to our clients and friends. It is designed to give only general information on the topic actually covered and is not intended to be a comprehensive summary of recent developments in the law, to treat exhaustively the subjects covered, to provide legal advice, or to render a legal opinion.