

## Students with disabilities can more quickly be removed from class under a new Tennessee rule

Tennessee schools can now more quickly remove some students with disabilities from their classrooms.

The state Board of Education on Friday approved an amended state rule allowing schools to temporarily remove students to an environment such as a special education classroom or even into an alternative school before a formal behavioral assessment is completed or even started.

A 2022 state rule required Tennessee schools to perform an FBA, a comprehensive assessment required by the federal Individuals with Disabilities Education Act, when a student is engaging in dangerous or “highly disruptive” behavior.

But Tennessee education officials told the board earlier this year that educators interpreted the 2022 rule to mean a student could not be removed until the assessment was completed, which could mean a lengthy waiting period for districts with limited resources.

Board Vice-Chair Darrell Cobbins said he fielded multiple emails and calls from concerned parents and advocates on the issue. He had questions about how the policy would be used, but said he was satisfied that it provides protections from “one individual” making a swift decision to remove a student.

Instead, a student’s Individualized Education Program team would have to make the decision to move a student to a more restrictive environment.

“This should not be a first resort, and there’s a process in place both for the decision being made but also parent empowerment,” Cobbins said. “If they feel like it has not been done in a way that was conducive for that child, there’s a route for that to be addressed.”

Earlier this summer, disability advocates advised caution when implementing the rule change and expressed concern that it could be used too frequently but acknowledged there are circumstances where removal is needed for everyone’s safety.

Allison Oliver, an Austin Peay State University assistant professor with a specialty in special education, said she thinks more emphasis should be on teacher training and staffing support when supporting students with disabilities.

Before entering higher education, Oliver worked for nearly two decades in K-12 special education, including as a behavioral specialist responsible for writing the functional behavior assessments at a 32-school district in Mississippi.

Oliver said she is concerned about using exclusion, whether it's moving a child to a special education classroom or into an alternative school setting, as a response to challenging behavior, though she acknowledged removals are necessary at times.

“One of the largest barriers I saw as a behavior specialist were teachers who were just not prepared for the type of behaviors being presented in class, and some of the ways trauma is being presented in classrooms,” Oliver said. “You have teachers in all capacities, and one might deem certain behavior as severe while others would deem it as at-risk. Behaviors can be disproportionately dealt with across the region.”

Under federal and state disability protections, students must be educated in the “least restrictive environment” deemed appropriate under their individualized education program.

The goal is to educate all students in a general classroom with their peers, but a more restrictive environment might mean a student receives special education programming throughout the day, is placed in a separate classroom, or attends a specialized homeschool or residential program.

The Individuals with Disabilities Education Act requires a functional behavioral assessment if an IEP team thinks a student should be moved to a more restrictive environment, but how and when states actually implement the assessments varies.

[In May, state board member Jordan Mollenhour](#) raised concerns about the timeline to perform formal behavioral assessments. Some states require districts to complete the assessments in a certain time period.

TDOE General Counsel Taylor Jenkins said there is not a definitive time limit for completing the assessments, but the department guidance has “typically” been that 45 to 60 days is appropriate.

The August 15 rule change did not impose any new time limits for assessments.