

Emergency Rule
LSA Document #13-421(E)

DIGEST

Temporarily adds provisions to explain and implement the requirements for provision of special education and related services by choice schools, annual reporting requirements, monitoring, and consequences for noncompliance by the choice school as required by [IC 20-51-4-4.6](#). Authority: [IC 20-51-4-4.6](#). Effective September 6, 2013.

SECTION 1. This document applies to:

- (1) A choice school as defined in SECTION 2 of this document.**
- (2) A school corporation as defined in [IC 20-28-2-16](#).**
- (3) A charter school as defined in [IC 20-24-1-4](#).**

SECTION 2. The following definitions apply throughout this document:

- (1) "Choice school" means a nonpublic school designated by the department as an eligible school pursuant to [IC 20-51-1-4.7](#) and [512 IAC 4](#).**
- (2) "Choice scholarship student" means a student with a disability who has been awarded a choice scholarship under [IC 20-51-4-4\(2\)](#).**
- (3) "Choice special education plan" or "CSEP" means the written document developed by the choice special education planning team that describes the special education and related services the choice school will provide to the choice scholarship student.**
- (4) "Department" means the department of education established by [IC 20-19-3-1](#).**
- (5) "Division of special education" means the division of special education established by [IC 20-35-2-1](#).**

SECTION 3. (a) The choice school shall, at the time a student with a disability applies for choice scholarship, inform the parent of a student with a disability of the special education and related services the choice school makes available.

(b) Subsequent to receiving information described in subsection (a) and prior to the submission of the choice scholarship application, the parent must select either the choice school or the local school corporation as the provider of special education and related services for the student.

(c) The parent's selection pursuant to subsection (b) is valid for the school year at the choice school for which the choice scholarship was awarded.

SECTION 4. (a) Within a reasonable time after the choice scholarship student enrolls in the choice school, the choice school shall convene a meeting with the parent of the choice scholarship student and school staff to:

- (1) determine the choice scholarship student's special education and related service needs; and**
- (2) develop a choice school education plan (CSEP) for the choice scholarship student.**

(b) The CSEP shall be in writing and, at a minimum, include the following components:

- (1) Measurable goals.**
- (2) Information on how the student's progress will be monitored and how parents will be informed of the progress.**
- (3) Accommodations that the choice school will provide to the student, including accommodations needed for the student to participate in statewide assessments.**
- (4) The length, frequency, and duration of the special education and related services to be provided.**

(c) The CSEP shall include statements to inform the parents of the following:

- (1) The parent must provide written consent in order for the choice school to implement the CSEP.**
- (2) The parent may revoke consent at any time by providing a signed written statement revoking such consent.**
- (3) Revocation of consent encompasses the entire CSEP.**
- (4) Upon receipt of the written revocation, the choice school will stop implementing the CSEP.**

(d) A parent may request a meeting at any time to review the CSEP. The choice school shall convene a meeting to review the CSEP within a reasonable time after receiving the request.

(e) For any choice scholarship student returning to the choice school, the student's previous year's CSEP shall be reviewed at the beginning of the school year to inform the planning and development of a CSEP for the current school year.

SECTION 5. (a) The parent must provide written consent for the CSEP in order for the choice school to implement the CSEP.

(b) The choice school shall provide the parent of with a copy of the CSEP.

(c) The choice school shall implement the CSEP as written.

(d) At any time after the parent gives consent for implementation of the CSEP, the parent may revoke that consent by submitting a signed written statement to the choice school revoking the consent.

(e) A parent's revocation of consent encompasses everything included in the CSEP.

(f) The choice school shall terminate special education and related services upon receipt of the parent's written revocation and is not required to provide special education and related services for the remainder of the school year.

(g) Upon the choice school's receipt of the parent's revocation of consent, the choice school shall immediately:

- (1) provide written notice to the school corporation within whose boundaries the choice school is located that the student's scholarship is no longer funded pursuant to [IC 20-51-4-4\(2\)](#); and
- (2) provide the school corporation with a copy of the student's CSEP.

(h) Not later than ten (10) instructional days from the date the school corporation receives the written notice described in [subsection] (g), the school corporation shall convene a case conference committee meeting and develop an individual service plan in accordance with [511 IAC 7-34-5](#).

SECTION 6. If the parent of a choice scholarship student requests a reevaluation of the student:

- (1) the school corporation shall conduct the reevaluation in accordance with [511 IAC 7-40-8](#); and
- (2) the choice school shall collaborate with the school corporation and share all relevant information applicable to the reevaluation.

SECTION 7. (a) If a parent of a choice scholarship student believes the choice school is not complying with the requirements of this document, the parent may file a complaint with the choice school.

(b) If the choice school does not resolve the complaint to the parent's satisfaction, the parent may file a complaint with the department as described in this document.

(c) The complaint must:

- (1) be in writing;
- (2) include the name and address of the choice school;
- (3) include a statement alleging that the choice school has failed to comply with one (1) or more requirements of this document;
- (4) include the facts on which the alleged noncompliance is based;
- (5) be signed by the parent and include the parent's contact information; and
- (6) be submitted to the choice school and the division of special education.

(d) If the complaint alleges violations with respect to a specific choice scholarship student, the complaint must also include the name and address of the student.

(e) The division of special education shall investigate the complaint as described in [511 IAC 7-45-1](#).

(f) The choice school is required to complete any corrective action resulting from the complaint investigation within the timeline prescribed by the complaint investigation report.

(g) Failure of the choice school to complete any prescribed corrective action may negatively impact the choice school's continued eligibility pursuant to [512 IAC 4](#).

SECTION 8. (a) On December 1 of each year, or such date as determined by the department, each choice school must count the number of school age students for whom both of the following apply:

- (1) a choice scholarship under [IC 20-51-4-4\(2\)](#) has been awarded; and
- (2) the choice school is providing special education and related services pursuant to a CSEP to which the parent has provided written consent.

(b) The choice school shall comply with department's established procedures and format in submitting required data under this SECTION.

SECTION 9. (a) Not later than ten (10) business days of receiving a request from a choice school for the education records of a choice scholarship student enrolled in the choice school, the school corporation or charter school shall provide the requested records to the choice school.

(b) Subject to subsection (c), and not later than ten (10) business days of receiving a request from a school corporation or a charter school for the education records of a choice scholarship student previously enrolled in the choice school, the choice school shall provide the requested records to the school corporation or charter school.

(c) If the parent of a choice scholarship student is in breach of a contract that conditions release of student records on the payment of outstanding tuition and other fees, the choice school shall within ten (10) business days of the request, provide a requesting school corporation with sufficient verbal information to permit the school corporation to make an appropriate placement decision regarding the student.

SECTION 10. (a) A school corporation must consider all eligible parentally placed nonpublic students with disabilities, including choice scholarship students, when determining how it will expend its proportionate share of federal special education funds on services to parentally placed nonpublic students with disabilities.

(b) A school corporation within whose boundaries the choice school is located may, but is not required, choose to expend part of the proportionate share of federal special education funds on services to choice scholarship students.

(c) The school corporation within whose boundaries the choice school is located is not required to provide special education and related services for any choice scholarship student attending the choice school as described in [IC 20-51-4-4.5](#).

(d) For students with disabilities who have been unilaterally enrolled by their parents in a choice school but who are not choice scholarship students, the school corporation must comply with the requirements of [511 IAC 7-34](#).

(e) The school corporation's child find responsibilities related to students who have been unilaterally enrolled by their parents in a choice school is subject to [511 IAC 7-34](#).

SECTION 11. (a) No later than November 1, each choice school serving choice scholarship students shall sign an assurance that:

- (1) The choice school will inform the parent of special education and related services available from the choice school so that the parent is able to make an informed choice as to who will provide the special education and related services to the student.
- (2) The choice school and the parent will collaborate to develop the student's choice school education plan.
- (3) The choice school education plan will be in writing and will be implemented only upon the parent's written consent to the plan.
- (4) The choice school will inform the parent of the consent requirement, the parent's right to revoke that consent, and the consequences of revoking consent.
- (5) The choice school will provide student progress reports as described in the choice scholarship education plan.

(b) The division of special education may conduct random onsite reviews of the choice schools to verify compliance with the outcomes described in subsection (a) and will coordinate such reviews with other onsite reviews of choice schools conducted by the department.

SECTION 12. This document expires on the earlier of:

- (1) The date the emergency rule is amended or repealed by a later rule adopted under [IC 4-22-2-22.5](#) through [IC 4-22-2-36](#) or under [IC 4-22-2-37.1](#).
- (2) One (1) year after the date the emergency rule is adopted.

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