



## MEMORANDUM

To: Indiana State Board of Education  
From: Becky Bowman, Director of Special Education  
Date: July 31, 2013  
Re: Request for approval of emergency rule to implement HEA 1003  
Request for approval to initiate permanent rulemaking to implement HEA 1003

House Enrolled Act 1003 created a new choice scholarship specifically for students identified as being students with disabilities and in need of special education and related services. This choice scholarship is funded by both basic tuition support and the state special education grant funds. The Act requires the State Board to adopt rules, including emergency rules, “for the provision of special education [and] related services to an eligible choice scholarship student who receives an amount under [IC 20-51-4-4(2)]. The rules adopted under this section shall include annual reporting requirements, monitoring, and consequences for noncompliance by an eligible school.”

Prior to the enactment of HEA 1003, school corporations were required to make special education and related services available to all students with disabilities whose parents enrolled them in a nonpublic school located within the school corporation’s boundaries. School corporations received state special education funds to help pay for the special education and related services they made available to these nonpublic students. With the enactment of HEA 1003, the school corporation is relieved of its obligation to provide special education and related services to nonpublic students with disabilities who receive a choice scholarship, and the provision of such services rests with the choice school.

A draft emergency rule was vetted with stakeholders including: the Superintendent of the Archdiocese of Indianapolis, the special education director from Lutheran Ministries, the principal from a local parochial high school, the executive director of the Indiana Nonpublic Education Association, and special education directors from three school corporations. A robust discussion occurred, but there was no consensus on the contents of the final draft emergency rule to be recommended to the Board. The primary concern of the nonpublic school is that the originally proposed draft rule is too prescriptive; the public school representatives believe additional components need to be included. The Department considered the many comments and made a number of revisions to the original version of the draft rule.

A copy of the resulting draft emergency rule is attached. In order to see the changes that resulted from the stakeholder meeting, please note the following:

- Black text reflects the language of the original draft.
- Red text reflects language that the Department proposes to be added to substitute for language that would be removed.
- The ~~strike through~~ text reflects original language that the Department proposes to remove.

The proposed emergency rule addresses the following:

- Section 1: Applicability of the emergency rule
- Section 2: Definitions that apply to the emergency rule.
- Section 3: Sections of 511 IAC 7 (special education rules) that apply to choice schools.
- Section 4: Procedures for a Choice School Education Planning Team (CSEPT) – similar to a case conference committee in the public school
- Section 5: Members of the CSEPT
- Section 6: CSEPT meetings, including timing and notice to parents
- Section 7: CSEPT development of a Choice School Education Plan (CSEP) – similar to an individualized education plan (IEP) in the public school.
- Section 8: Contents of a CSEP.
- Section 9: Copy of the CSEP and notice to parents; parental consent required before implementation of CSEP.
- Section 10: Providing services; comparable instructional materials required; appropriately licensed personnel required; providing services directly or through a contracted entity.
- Section 11: Parent revocation of consent to implementation of CSEP.
- Section 12: Procedural safeguards for parents and students with disabilities.
- Section 13: Complaint process for allegations of noncompliance.
- Section 14: Choice school participation in child count and data collection for students with disabilities.
- Section 15: Exchange of records between a school corporation and a choice school.
- Section 16: School corporation responsibilities.
- Section 17: Expiration of emergency rule.

The Department respectfully requests the Board's approval of the proposed emergency rule and for approval to initiate permanent rulemaking to replace the emergency rule.

# TITLE 511 INDIANA STATE BOARD OF EDUCATION

## Emergency Rule

LSA Document #13-XXX(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 4-22-2-37.1(a)(37); IC 20-51-4-4.6. Effective upon filing.

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) "Choice special education planning team" or "CSEPT" means the group of individuals described in section 5 of this document that is responsible for the development of a choice scholarship student's CSEP.

(5) "Department" means the department of education established by IC 20-19-3-1.

(6) "Division of special education" means the division of special education established by IC 20-35-2-1.

(7) "Lead teacher" means the teacher assigned by the choice school for each choice scholarship student. The lead teacher **is responsible for monitoring the implementation of the choice scholarship student's CSEP and sharing the CSEP with all staff responsible for implementing the CSEP.** shall do the following:

~~(1) Provide direct or indirect services to the student according to the choice scholarship student's CSEP.~~

~~(2) Participate in the CSEPT meeting to assist in developing measurable goals to meet the student's needs.~~

~~(3) Regularly monitor the implementation of the choice scholarship student's CSEP and provide progress reports to the student's parent.~~

~~(4) Ensure that the choice scholarship student's CSEP is accessible to all individuals responsible for implementing the CSEP.~~

~~(5) Inform each teacher and service provider of his or her specific responsibilities related to implementing the CSEP.~~

~~(6) Ensure that:~~

- ~~(A) supplementary aids and services;~~
  - ~~(B) program modifications; and~~
  - ~~(C) supports for school personnel;~~
- are provided in accordance with the CSEP.

~~(7) Serve as a consultant and resource person to all other personnel providing services to the student.~~

~~(8) Ensure any accommodations on statewide or choice school assessments are implemented according to the CSEP.~~

SECTION 3. (a) The following rules apply to choice schools:

- (1) 511 IAC 7-32.
- (2) 511 IAC 7-36-10.
- (3) 511 IAC 7-38.
- (4) 511 IAC 7-43-1.
- (5) 511 IAC 7-43-5.
- (6) 511 IAC 7-45-1.

(b) For purposes of this document, the following apply:

- (1) Whenever the term “public agency” is used in these rules, it shall mean choice school.
- (2) Whenever the term “student” or “student with a disability” is used in these rules, it shall mean choice scholarship student.

SECTION 4. (a) The choice school must ~~have in place written procedures to ensure the appropriate implementation of the CSEPT process, including the following:~~ **scheduling the CSEPT and convening the CSEPT upon a parent’s request.**

~~(1) The title or position of the individuals designated as, or who may serve as, the representative of the choice school and a description of the roles and responsibilities of the:~~

- ~~(A) choice school representative; and~~
  - ~~(B) other choice school personnel;~~
- ~~before, during, and after the CSEPT meeting.~~

~~(2) A description of the following:~~

- ~~(A) The methods used to assure the parent is provided with adequate notice of the CSEPT meeting.~~
- ~~(B) The written notice that must be provided to a parent prior to CSEPT meeting as specified in section 6 of this document.~~
- ~~(C) The methods used to assure the parent understands the proceedings of the CSEPT meeting.~~
- ~~(D) The written notice that must be provided to a parent to assure the parent is fully informed of the proposed CSEP prior to the parent giving or denying permission for the provision of services and prior to the choice school implementing the CSEP.~~

~~(b) The choice school must provide information and training that addresses the requirements set forth in this document to ensure that choice school staff has the necessary knowledge regarding the following:~~

- ~~(1) How to schedule and document CSEPT meetings.~~
- ~~(2) How to develop a CSEP, including the required components of a CSEP.~~
- ~~(3) How to serve as the choice school’s representative, including information about the availability of and the authority to commit the choice school’s resources.~~

SECTION 5. (a) For each CSEPT meeting, the choice school must ensure the participation of appropriate choice school staff who are knowledgeable about the choice scholarship student's general education, special education, and related service needs. designate a representative who:

(1) is:

- ~~(A) knowledgeable about the availability of, and has the authority to commit, resources of the choice school;~~
  - ~~(B) qualified to provide or supervise the provision of specially designed instruction to meet the unique needs of choice scholarship students with disabilities; and~~
  - ~~(C) knowledgeable about the general education curriculum; and~~
- (2) may be any choice school participant of the CSEPT if the criteria of subdivision (1) are satisfied.

(b) The choice school must ensure that the CSEPT participants include:

(1) The designated choice school representative, as described in this section.

(2) One of the following:

- ~~(A) The choice scholarship student's lead teacher.~~
  - ~~(B) In the case of a student with a language or speech impairment only, the speech language pathologist~~
- (3) Not fewer than one (1) of the choice scholarship student's general education teachers, if the choice scholarship student is or may be participating in the general education environment.

(4) If necessary, an individual who can interpret the instructional implications of evaluation results, who may be one of the members of the CSEPT described in subdivisions (1) through (3).

(5) (b) The CSEPT shall also include:

- (A1) the parent of a choice scholarship student less than eighteen (18) years of age; or
  - (B2) the choice scholarship student of legal age as defined in 511 IAC 7-32-91;
- unless the parent or choice scholarship student of legal age chooses not to participate, as described in section 6 of this document.

(c) At the discretion of the parent or the choice school, other individuals who have knowledge or special expertise regarding the choice scholarship student, including related services personnel, as appropriate, may participate in the CSEPT meeting. The determination of the knowledge and special expertise of any individual described in this section must be made by the party who invited the individual to participate.

(d) At the discretion of the parent, the choice scholarship student may participate in any CSEPT meeting in addition to those meetings to which the choice scholarship student must be invited.

SECTION 6. (a) A CSEPT must convene within ten (10) instructional days of the choice scholarship student's enrollment in the choice school and develop the choice scholarship student's CSEP.

(b) A CSEPT meeting must be scheduled at a mutually agreed upon date, time, and place. If a parent cannot attend in person, the choice school must use other methods to ensure parent participation, including an individual or conference telephone call or video conference.

(c) ~~A CSEPT meeting may be conducted without a parent in attendance if the parent chooses not to participate in person or by other methods. In this case, the choice school must keep a record of its attempts to arrange a mutually agreed upon date, time, and place for the CSEPT meeting, such as the following:~~

- (1) Detailed records of:
  - (A) ~~telephone calls made or attempted; and~~
  - (B) ~~the results of the calls.~~

- (2) Copies of:
  - (A) ~~correspondence sent to the parent; and~~
  - (B) ~~any responses received.~~

- (3) Detailed records of:
  - (A) ~~visits made to the parent's home or place of employment; and~~
  - (B) ~~the results of those visits.~~

(c) The parent must be given adequate notice of the CSEPT meeting in the parent's native language or other mode of communication, early enough to ensure that one (1) or both parents have the opportunity to attend. ~~Notice of the meeting must be sent to the following persons:~~

- (1) ~~The parent, regardless of the age of the choice scholarship student.~~
- (2) ~~The choice scholarship student of legal age, as defined in 511 IAC 7-32-91, regardless of the purpose of the CSEPT meeting.~~
- (3) ~~All other persons that must attend the CSEPT meeting as specified in section 5 of this document.~~

(e) The notice of the meeting must include the following:

- (1) The date, time, and place of the meeting.
- (2) The purpose of the meeting.
- (3) The names and titles or positions of the ~~designated choice school representative and a list, by name and title or position, of other~~ expected participants.
- (4) A two-part statement that:
  - (A) the parent or choice school may invite any other individual whom the parent or choice school has determined has knowledge or special expertise regarding the choice scholarship student, including related services personnel, as appropriate; and
  - (B) the determination of the knowledge or special expertise of any invited individual must be made by the person who invited the individual to participate in the CSEPT meeting.

(d) As long as the choice scholarship student remains enrolled in the choice school and subsequent to the initial CSEPT meeting described in this section, the CSEPT shall meet at least annually to:

- (1) review the choice scholarship student's CSEP and determine whether the choice scholarship student's annual goals, described in section 8 of this document, are being achieved; and
- (2) revise the CSEP, as appropriate, to address:
  - (A) any lack of expected progress, based on progress monitoring data, toward the annual goals and in the general education curriculum, if appropriate;
  - (B) the choice scholarship student's anticipated needs; or
  - (C) other matters.

(e) A meeting of the CSEPT may be requested by the parent at any time. The choice school shall schedule the CSEPT meeting as soon as possible after the parent's request and in accordance with the scheduling and notice requirements of this section.

(f) When a CSEPT is convened, the choice school must take whatever action is necessary to ensure the parent understands the proceedings of the CSEP, including arranging for an interpreter for a parent:

- (1) who is deaf or hard of hearing; or
- (2) whose native language is not English.

SECTION 7. (a) The CSEPT shall develop a CSEP for the choice scholarship student.

(b) When developing a choice scholarship student's CSEP, a CSEPT must consider the following general factors:

(1) The strengths of the choice scholarship student.

(2) The concerns of the parent for enhancing the education of the choice scholarship student.

(3) The results and instructional implications of the most recent educational evaluation and other of the choice scholarship student if available.

(4) The:

(A) academic;

(B) developmental;

(C) communication; and

(D) functional;

needs of the choice scholarship student.

(5) The special education and related services included in the choice scholarship student's most recent individualized education program (IEP) or individual service plan (ISP), if applicable.

(6) The special education and related services needed to meet the unique needs of the choice scholarship student, regardless of the choice scholarship student's identified disability.

(c) The CSEPT must also consider the following special factors when applicable:

(1) Positive behavioral interventions and supports, and other strategies, to address any of the student's behaviors that impede the student's learning or the learning of others.

(2) Any supports, ~~as described in section \_\_\_ of this document,~~ necessary to provide choice school personnel with the knowledge and skills necessary to implement the choice scholarship student's CSEP.

(3) The language needs of a choice scholarship student with limited English proficiency as those needs relate to the choice scholarship student's CSEP.

(4) In the case of a choice scholarship student who is deaf or hard of hearing or a choice scholarship student who is deaf-blind, the choice scholarship student's:

(A) language and communication needs;

(B) opportunities for direct communications with peers and professional personnel in the choice scholarship student's language and communication mode;

(C) academic level; and

(D) full range of needs;

including opportunities for direct instruction in the choice scholarship student's language and communication mode.

(5) Instruction in Braille and the use of Braille for a choice scholarship student who is blind or has low vision or a choice scholarship student who is deaf-blind, unless the CSEPT determines, after a functional literacy assessment (sometimes referred to as a learning media assessment) of the choice scholarship student's reading and writing skills, needs, and appropriate reading and writing media (including an evaluation of the choice scholarship student's future needs for instruction in Braille or the use of Braille), that instruction in Braille or the use of Braille is not appropriate for the choice scholarship student.

(6) The choice scholarship student's need for assistive technology devices and services.

(e) The general education teacher who is a member of the choice scholarship student's CSEPT must participate in the development of a choice scholarship student's CSEP, including the determination of and supplementary aids and services, program modifications, and support for school personnel consistent with sections 7 and 8 of this document.

SECTION 8. (a) A CSEP must include the following:

- (1) A statement of the choice scholarship student's present levels of educational performance.
- (2) A statement of measurable annual goals related to the choice scholarship student's educational needs, describing what the choice scholarship student can be expected to accomplish within a twelve (12) month period and designed to meet:
  - (A) the choice scholarship student's needs that result from the student's disability and enable the choice scholarship student to be involved in and make progress in the general education; and
  - (B) the choice scholarship student's other educational needs that result from the student's disability.
- (3) A statement of the special education and related services and supplementary aids and services to be provided to the choice scholarship student.
- (4) A statement of any supports, if any, determined necessary to provide choice school personnel with the knowledge and skills necessary to implement the CSEP, including:
  - (A) The types of supports to be provided.
  - (B) The intent of the supports which can be related to choice school personnel, the choice scholarship student, or both.
- (5) A statement regarding the choice scholarship student's participation in statewide or choice school assessments, including the following:
  - (A) Documentation of any appropriate testing accommodations that will be utilized by the choice scholarship student, according to the requirements in 511 IAC 7-36-10.
  - (B) If the CSEPT determines, in accordance with 511 IAC 7-36-10(g) and 511 IAC 7-36-10(h), that the choice scholarship student must take an alternate assessment instead of a particular statewide assessment, a statement:
    - (i) describing why the choice scholarship student cannot participate in the general assessment;
    - (ii) describing why the particular assessment selected is appropriate for the choice scholarship student; and
    - (iii) documenting that the choice school has informed the parent that the choice scholarship student's performance will not be measured against grade-level academic achievement standards.
- (6) The projected dates for initiation of services by the choice school and the anticipated length, frequency, location, and duration of services.
- (7) A statement of the choice scholarship student's progress toward annual goals including how frequently and in what manner the choice school will inform the parents of the progress.
- (8) An explanation of the extent, if any, to which the choice scholarship student will not participate with nondisabled choice scholarship students in the general education environment and in extracurricular and other nonacademic activities.
- (9) Identification of the placement in the least restrictive environment.
- (10) Beginning not later than one (1) year before the student becomes eighteen (18) years of age, a statement that the student and the parent have been informed that the parent's

rights under this document will transfer to the student at eighteen (18) years of age in accordance with 511 IAC 7-43-4.

(11) Written notes documenting the meeting of the CSEPT, including the following:

- (A) The date and purpose of the meeting.
- (B) The names and titles of the participants.
- (C) The issues discussed during the meeting.

(b) Nothing in this section shall be construed to require:

- (1) that additional information be included in a choice scholarship student's CSEP beyond what is explicitly required in this document; or
- (2) the CSEPT to include information under one (1) component of the choice scholarship student's CSEP that is already contained under another component of the choice scholarship student's CSEP.

(c) Any member of the CSEPT may submit a written opinion regarding the CSEP. The written opinion must:

- (1) be submitted to the choice school not later than ten (10) business days after the date of the CSEPT meeting; and
- (2) remain with the choice scholarship student's educational records.

SECTION 9. (a) The choice school must give the parent a copy, at no cost, of the choice scholarship student's CSEP. The copy may be:

- (1) provided to the parent at the conclusion of the CSEPT meeting; or
- (2) mailed to the parent at a later date.

If mailed, the parent must receive the CSEP no later than ten (10) business days after the date of the CSEPT meeting

(b) A written notice must be included with the CSEP. The written notice must include the following:

- (1) An explanation of why the choice school proposed or refused to take action.
- (2) A description of the factors on which the choice school based its decision proposing or refusing to take action.
- (3) Other options that the CEPT considered and the reasons why those options were rejected.
- (4) Other factors relevant to the choice school's proposal or refusal.

(2) A statement that written parental consent is required before the choice school can implement the proposed CSEP.

(3) A statement that the parent may revoke consent at any time.

(c) The CSEP may serve as the written notice described in this section if the CSEP meets the requirements of subsection (b).

(d) The choice school must obtain the parent's written consent prior to implementing a choice scholarship student's CSEP.

~~(e) A choice school must make reasonable efforts to obtain written parental consent required under this section. To meet this requirement, the choice school must document its attempts to obtain parental consent, such as the following:~~

~~(1) Detailed records of:~~

- ~~(A) telephone calls made or attempted; and~~
- ~~(B) the results of those calls.~~

~~(2) Copies of:~~

- ~~(A) correspondence sent to the parent; and~~
- ~~(B) any responses received.~~

~~(3) Detailed records of:~~

~~(A) visits made to the parent's home or place of employment; and~~

~~(B) the results of those visits.~~

(e) If the parent of a choice scholarship student refuses to consent to (or fails to respond to a request for consent to) the provision of special education and related services described the proposed CSEPT, the choice school may not implement the proposed CSEP.

SECTION 10. (a) The services identified in a CSEP must be provided no later than ten (10) instructional days after the choice school receives the parent's written consent.

(b) A CSEP must be implemented as it is written.

(c) The choice school shall ensure that choice scholarship students have instructional materials and supplies comparable to those provided to nondisabled students.

(d) If the CSEPT determined that the choice scholarship student needs instructional materials in an accessible format, including but not limited to the following:

(1) Braille;

(2) audio;

(3) digital text;

(4) large type;

(5) tactile graphics;

(6) video;

(7) captions; or

(8) audio description

the choice school must provide the accessible instructional materials in a timely manner.

(e) The choice school shall provide instructional materials and equipment and assistive technology devices and services as defined in 511 IAC 7-32-7 and 511 IAC 7-32-8 as specified in the choice scholarship student's CSEP.

(f) The choice scholarship student's lead teacher must do the following:

(1) Monitor the implementation of the choice scholarship student's CSEP.

(2) Ensure that each of the choice scholarship student's teachers, related service providers, paraprofessionals, and any other service providers, who are responsible for implementing the student's CSEP:

(A) have access to a copy of the CSEP;

(B) are informed of their specific responsibilities related to implementing the CSEP; and

(C) are informed of the specific accommodations, modifications, and supports that must be provided for the choice scholarship student in accordance with the student's CSEP.

~~(3) Be responsible for all other activities identified in section 2 of this document.~~

~~(g) Each choice school must carry out activities to ensure that choice school personnel are:~~

~~(1) fully informed about their respective responsibilities for implementing this document; and~~

~~(2) provided with:~~

~~(A) technical assistance and training necessary to assist them in this effort; and~~

~~(B) the necessary knowledge and skills to implement each student's CSEP.~~

(g) Special education and related services delivered pursuant to a CSEP must be provided:

(1) by employees of the choice scholarship school; or

(2) through a contract by the choice scholarship school with an:

- (A) individual;
- (B) association;
- (C) agency;
- (D) organization; or
- (E) other entity.

(h) All personnel employed or contracted to provide special education or related services must be appropriately licensed or certified and must have the content knowledge and skills necessary to provide the services for which the individual is employed or contracted.

(i) Related service personnel who deliver services in their discipline may not have certification or licensure requirements waived on:

- (1) an emergency;
- (2) a temporary; or
- (3) a provisional basis.

(j) Services to choice scholarship students may be provided at:

- (1) the choice scholarship school;
- (2) an alternate location determined by the choice school.

(k) If services are provided at an alternate location and transportation is necessary, the choice school must provide transportation from the:

- (1) choice school or the choice scholarship student's home to the alternate location; and
- (2) alternate location to the choice school or the choice scholarship student's home, depending on the timing of the services.

(l) Not later than ten (10) instructional days after the beginning of each school year, a choice school must have a CSEP in effect for each choice scholarship student as described in section 7 of this document.

SECTION 11. (a) At any time after the parent gives consent for implementation of the CSEP, the parent may revoke that consent by doing the following:

- (1) Putting the revocation of consent in writing.
- (2) Signing the revocation.
- (3) Submitting the written revocation to the choice school administrator.

(b) If a parent revokes consent for implementation of the CSEP, the choice school must terminate the implementation of the CSEP within ten (10) instructional days from the date the choice school receives the written revocation.

(c) A parent's revocation of consent covers all instruction, services, and supports included in the CSEP, including, but not limited to, the following:

- (1) Specialized instruction.
- (2) Related services.
- (3) Accommodations.
- (4) Adaptations.
- (5) Modifications.
- (6) Supports for the student or personnel on behalf of the student.
- (7) Assistive technology devices and services.
- (8) Placement outside of a general education classroom.

(d) A parent may not revoke consent for fewer than all of the special education and related services included in the choice scholarship student's CSEP.

(e) The choice school is not required to amend the student's educational records to remove any reference to the student's special education and related services when the parent revokes consent for services. This does not preclude a parent from requesting that the student's educational record be amended in accordance with the procedures contained in 511 IAC 7-38-2.

(f) If, after revoking consent, a parent wants the student to receive special education and related services, the parent must request a CSEPT meeting, and the CSEPT shall develop a CSEP in accordance with this document.

(g) If the parent revokes consent for special education and related services, the choice school may not count that child in the school's special education child count, and the choice scholarship student will not receive the amount, described in Indiana Code § 20-51-4-4(2), as a part of the choice scholarship award in accordance with 512 IAC 4.

SECTION 12. (a) The choice school shall establish, maintain, and implement procedures in accordance with this section to ensure that all choice scholarship students and their parents are afforded procedural safeguards with respect to the provision of special education and related services by the choice school.

(b) The choice school shall provide written notice of the procedural safeguards to the parent of a choice scholarship student:

- (1) at the first CSEPT meeting each school year;
- (2) upon receipt of the first filing of a complaint under 511 IAC 7-45-1 in a school year; and
- (3) upon a parent's request.

(c) The written notice of procedural safeguards must include an explanation of the following:

- (1) The parent's right to participate as a member of the CSEPT.
- ~~(2) The parent's right to written notice before the choice school proposes to change the choice education plan or the implementation of services described in the plan.~~
- (2) The parent's right to request a meeting of the CSEPT at any time.
- (3) The prerequisite of written parental consent, as defined in 511 IAC 7-32-7, in order for the choice school to implement the special education and related services described in the CSEP.
- (4) The parent's right to revoke consent to the implementation of the CSEP and the implications of that revocation.
- (5) The parent's right to access the choice scholarship student's educational record as described in 511 IAC 7-38, including the following:
  - (A) Accessing the record.
  - (B) Inspecting and reviewing the record.
  - (C) Challenging information in the record.
  - (D) Amending information in the record.
  - (E) The consent required for disclosure, use, and destruction of records under 511 IAC 7-38-1.
  - (F) Any fees associated with copying the record.
- (6) The transfer of rights to the choice scholarship student at eighteen (18) years of age under 511 IAC 7-43-5, unless a guardian has been appointed for the choice scholarship student.
- (7) The right of the parent, or any interested party, to file a complaint in accordance with 511 IAC 7-45-1.

(8) The names and addresses of agencies and organizations, including the choice school, that can provide assistance to parents in understanding this document.

(d) The written notice of procedural safeguards shall be:

- (1) a standard notice;
- (2) written in language understandable to the general public;
- (3) provided in the:
  - (A) native language; or
  - (B) other mode of communication

used by the parent unless it clearly is not feasible to do so; and

(4) printed in a format that is easy to read.

(e) When the native language or other mode of communication of the parent is not a written language, the choice school shall take steps to ensure the following:

- (1) The procedural safeguards are translated orally or by other means to the parent in his or her native language or other mode of communication.
- (2) The parent understands the content of the notice.
- (3) There is written documentation that the requirements of this subsection are met.

SECTION 13. (a) A complaint that a choice school has failed to meet the requirements of this document may be filed as described in this document.

(b) Any individual, group of individuals, agency, or organization may file a complaint alleging that a choice school has failed to comply with the one or more requirements of this document. 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 violated one or more requirements of this document;
- (4) include the facts on which the alleged violation is based;
- (5) be signed by the complainant or complainants and include contact information of the complainant or complainants; and
- (6) be submitted to the choice school and the division of special education.

(c) 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.

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

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

(f) 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 14. (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, including:

- (1) race;

- (2) ethnicity;
- (3) limited English proficiency status;
- (4) gender;
- (5) disability category;
- (6) participation in general education classes; and
- (7) placement in separate classes.

SECTION 15. (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 child.**

~~The choice school may not delay or refuse to provide records to a school corporation or charter school based on an outstanding balance of fees or related charges owed by the parent.~~

SECTION 16. (a) A 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.

(b) 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.

(c) 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 17. This emergency rule 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.

One (1) year after the date the emergency rule is adopted