



INDIANA STATE BOARD OF EDUCATION

MEMORANDUM

To: Indiana State Board of Education
From: Brian Murphy, Staff Attorney
Date: October 27, 2014
RE: Approval of final language for rules 13-560 and 13-561

The Board voted to approve rule language for LSA Rules 13-560 and 13-561 by 10-0 votes during the August 6, 2014 meeting. Subsequently, the Attorney General's office recommended staff conduct a second round of public hearings. A second round of hearings was conducted and no member of the public attended. Once the Board approves the language again, the rules will be resubmitted to the Attorney General's office for approval. The final rule language for both 13-560 and 13-561 have been included.

Final Rule
LSA Document #13-561(F)

DIGEST

Adds [511 IAC 7-49](#) 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. Effective 30 days after filing with the Publisher.

[511 IAC 7-49](#)

SECTION 1. [511 IAC 7-49](#) IS ADDED TO READ AS FOLLOWS:

Rule 49. Provision of Special Education and Related Services by Choice Schools

[511 IAC 7-49-1](#) Applicability

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-24-1-4](#); [IC 20-28-2-16](#)

Sec. 1. This rule applies to the following:

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

(Indiana State Board of Education; [511 IAC 7-49-1](#))

[511 IAC 7-49-2](#) Definitions

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-19-3-1](#); [IC 20-35-2-1](#); [IC 20-51-1-4.7](#); [IC 20-51-4-4](#)

Sec. 2. The following definitions apply throughout this rule:

- (1) "Choice scholarship student" means a student with a disability who has been awarded a choice scholarship under [IC 20-51-4-4\(2\)](#).
- (2) "Choice school" means a nonpublic school designated by the department as an eligible school under [IC 20-51-1-4.7](#) and [512 IAC 4](#).
- (3) "Choice scholarship education plan" or "CSEP" means the written document developed by the choice scholarship 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](#).

(Indiana State Board of Education; [511 IAC 7-49-2](#))

[511 IAC 7-49-3](#) Parent selection of school to provide services

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4](#); [IC 20-35](#)

Sec. 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 under subsection (b) is valid for the school year at the choice school for which the choice scholarship was awarded.

(Indiana State Board of Education; [511 IAC 7-49-3](#))

[511 IAC 7-49-4](#) Choice scholarship education

plan Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4](#)

Sec. 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 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.

(d) Upon receipt of the written revocation, the choice school will stop implementing the CSEP. 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 if the choice scholarship student selects the choice school as the special education service provider for the current year.

(Indiana State Board of Education; [511 IAC 7-49-4](#))

[511 IAC 7-49-5](#) Parent consent

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4-4](#)

Sec. 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 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:

(1) shall terminate special education and related services upon receipt of the parent's written revocation; and

(2) 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 provide:

(1) written notice to the school corporation within whose boundaries the choice school is located that the student's scholarship is no longer funded under [IC 20-51-4-4\(2\)](#); and

(2) 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](#).

(Indiana State Board of Education; [511 IAC 7-49-5](#))

[511 IAC 7-49-6](#) Reevaluation

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4](#)

Sec. 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.

(Indiana State Board of Education; [511 IAC 7-49-6](#))

[511 IAC 7-49-7](#) Complaint process

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4](#)

Sec. 7. (a) If a parent of a choice scholarship student believes the choice school is not complying with the requirements of this rule, 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 rule.

(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 rule;

(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 under [512 IAC 4](#).

(Indiana State Board of Education; [511 IAC 7-49-7](#))

[511 IAC 7-49-8](#) Student count

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4-4](#)

Sec. 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.

(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.

(Indiana State Board of Education; [511 IAC 7-49-8](#))

[511 IAC 7-49-9](#) Education records

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4](#)

Sec. 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.

(Indiana State Board of Education; [511 IAC 7-49-9](#))

[511 IAC 7-49-10](#) Proportionate share

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4-4.5](#)

Sec. 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 who has designated the choice school to provide their special education services, unless consent was subsequently revoked for the implementation of the CSEP 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](#).

(Indiana State Board of Education; [511 IAC 7-49-10](#))

[511 IAC 7-49-11](#) Annual assurance

Authority: [IC 20-51-4-4.6](#)

Affected: [IC 20-51-4](#)

Sec. 11. (a) As part of the annual assurances required of an eligible choice school, each choice school shall sign an assurance that as follows:

- (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 CSEP.
- (3) The CSEP 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 following:
 - (A) The consent requirement.
 - (B) The parent's right to revoke that consent.
 - (C) 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 on-site reviews of the choice schools to verify compliance with the outcomes described in subsection (a) and will coordinate such reviews with other on-site reviews of choice schools conducted by the department.

(Indiana State Board of Education; [511 IAC 7-49-11](#))