

Article 7 Revisions

Indiana Department of Education's
Office of Special Education
Dispute Resolution Team

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RULEMAKING PROCESS: PARTIAL VIEW

SBOE - JULY 13, 2022

Initiate Rulemaking: Approval of Proposed Rule – Article 7

SBOE - DECEMBER 5, 2023

Adoption of Final Rule (After Public Comment) (LSA Document # 23-504)

APRIL 3, 2024

After the Governor signed, the Rule was posted to the Indiana Register (Register) on April 3, 2024. Access published Article 7 (May 2024): Office of Special Education webpage.

OVERVIEW OF ISSUES (SLIDE 1 OF 4)



Technical Corrections

- Corrections in terminology
- Corrections to section numbers or statutory citations



Minor Revisions for Clarification

- Not intended to change but to clarify requirements



Removal of Rules of General Applicability

- Move to Article 4: Pupil Personnel Services; Student Health Testing; Food....



OVERVIEW OF ISSUES (SLIDE 2 OF 4)



Definitions

- Some added, some deleted



Alternate Diploma/Certificate of Completion

- Compliance with federal and state laws (Articles 6 & 7)



Parentally-Placed, Non-public School Students

- Clarification on annual offer of services when parent declines
- Virtual non-public schools



OVERVIEW OF ISSUES (SLIDE 3 OF 4)

➤ Individuals with Disabilities Education Act (IDEA) Compliance

- Some added, some deleted

➤ Reevaluation Timeline

- Provides flexibility if student moves

➤ Related Services

- School psychologist authority
- Appropriate vehicle

OVERVIEW OF ISSUES (SLIDE 4 OF 4)



Dispute Resolution

- Clarification, compliance with Administrative Orders and Procedures Act (AOPA), compliance with IDEA



Choice Scholarship

- Clean up language, clarification



Education Scholarship Account Education Service Plan

- New rule - 511 Indiana Administrative Code (IAC) 7-50

Technical Corrections

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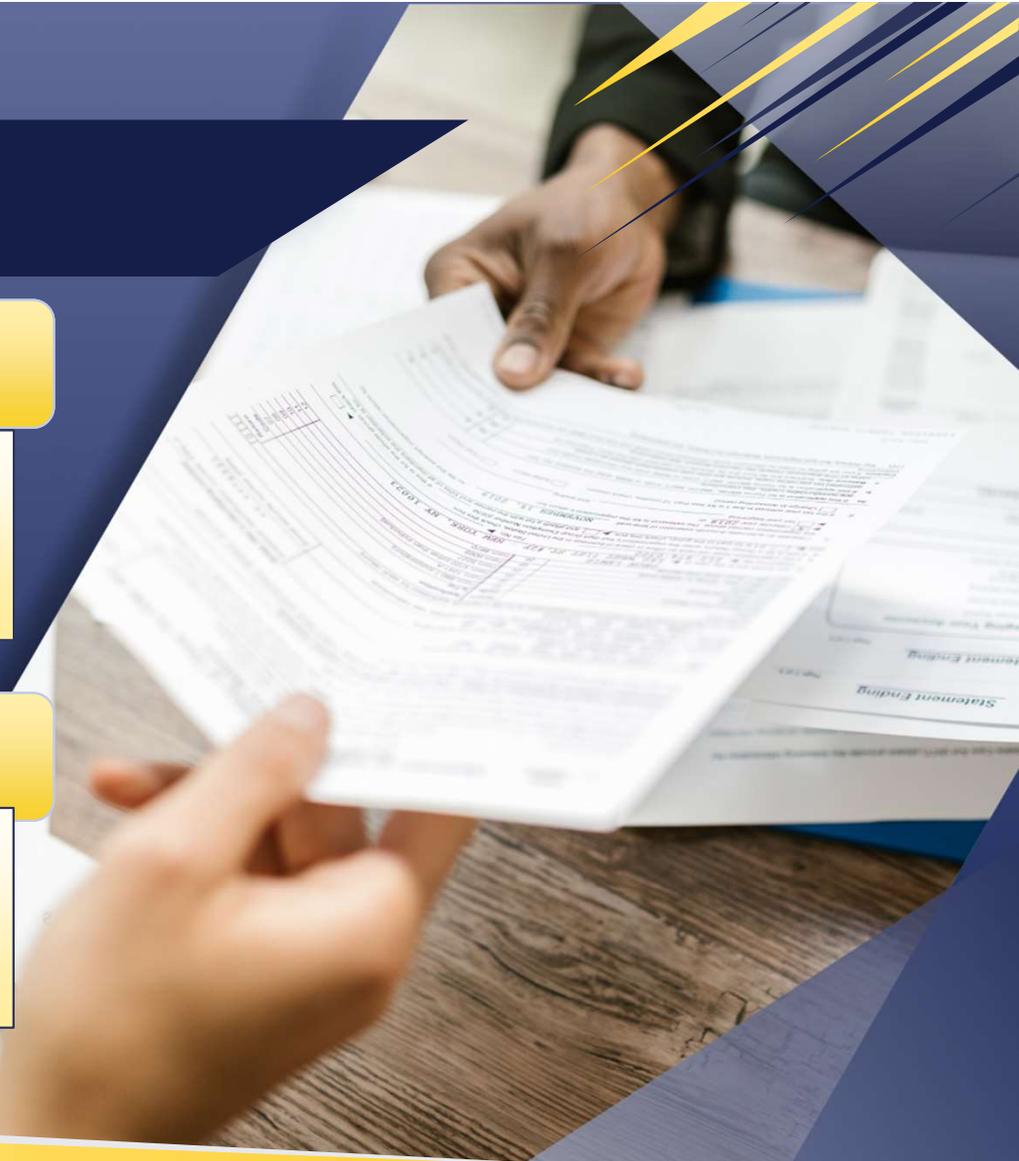
TECHNICAL CORRECTIONS EXPLAINED

Secretary of Education

- 511 IAC 7-34-6; 7-45-3; 7-45-8; 7-47-1; 7-47-2

Minor Revisions to Correct Citations

- 511 IAC 7-32-52; 7-40-7; 7-42-8; 7-44-3; 7-44-4



TECHNICAL CORRECTIONS EXPLAINED CONTINUED

Remove “Facilities” References

Parentally-placed students in non-public schools or facilities (511 IAC 7-34-1; 7-34-5; 7-34-7; 7-42-3)

Rosa’s Law

- 511 IAC 7-41-9

Minor Revisions: Clarification

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MINOR REVISIONS

Least-Restrictive Environment (LRE) – 511 IAC 7-42-10

- Public agency must have, and implement, written policies and procedures

Instruction in Home or Alternative Setting – 511 IAC 7-42-11

- Removes reference to section 12 and refers to students with injury or temporary or chronic illness

MINOR REVISIONS CONTINUED

Removals and Services in General – 511 IAC 7-44-1

- Clarifies that after the first 10 days of removal in a school year, special education and related services must be provided.

Disciplinary Change of Placement – 511 IAC 7-44-2

- Reorganization of the current requirements to help clarify the requirement for the public agency to make the determination as to whether a removal is considered a disciplinary change of placement

Removal of Rules of General Applicability

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RULES OF GENERAL APPLICABILITY UPDATES

Instruction for Students with Injuries and Temporary or Chronic Illnesses – 511 IAC 7-42-12

- Moved to 511 IAC 4-1.5-9

Revised/Added Definitions

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DEFINITIONS

Educational Surrogate Parent – 511 IAC 7-32-32

- Delete reference to training

Free Appropriate Public Education, or FAPE – 511 IAC 7-32-40

- Acronym is used throughout Art. 7, but isn't defined

New Teacher – 511 IAC 7-32-67 (Deleted)

- Previously part of House Objective Uniform Standard of Evaluation (HOUSSE) rubric

DEFINITIONS CONTINUED

Student with the Most Significant Cognitive Disability – 511 IAC 7-32-93.5

- New definition to assist CCC in determining those students who may participate in the alternate assessment and potentially be able to earn an alternate diploma

Veteran Teacher – 511 IAC 7-32-103 (Deleted)

- Had been part of the HOUSSE rubric

Virtual Instruction – 511 IAC 7-32-103.5 (New)

- Adds a definition from IC 20-43-1-34 as we now have virtual nonpublic schools, including choice virtual schools

Alternate Diploma & Certificate of Completion Updates

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ALTERNATE DIPLOMA/CERTIFICATE OF COMPLETION

(SLIDE 1 OF 3)

Authority to Award Locally Developed Certificates – 511 IAC 6-7.1-2

- Clarifies that a school may award a locally developed certificate, such as a certificate of completion, but it is not considered a diploma.

State and Local Assessments – 511 IAC 7-36-10

- Specifies criteria for the CCC to determine that a student with the most significant cognitive disability may participate in the statewide assessment.

ALTERNATE DIPLOMA/CERTIFICATE OF COMPLETION

(SLIDE 2 OF 3)

Educational Evaluations; in general – 511 IAC 7-40-3

- Provides that a public agency must provide a student with a summary of performance when a student graduates with a high school diploma or alternate diploma, leaves school with a certificate of completion or other local credential, or exceeds the age of eligibility.

ALTERNATE DIPLOMA/CERTIFICATE OF COMPLETION

(SLIDE 3 OF 3)

Transition Individualized Education Program – 511 IAC 7-43-4

- In the transition IEP, the CCC must document whether the student will pursue a high school diploma, an alternate diploma, or a locally developed credential.

Summary of Performance – 511 IAC 7-43-7

- Adds alternate diploma and other locally developed certificate or credential to the list of when the public agency must provide a summary of performance.

Parentally- Placed Non- Public School Students Updates

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PARENTALLY-PLACED NON-PUBLIC SCHOOL STUDENTS

School Corporation of Legal Settlement Only Required to Offer IEP Once if Declined – 511 IAC 7-34-3.

Service Plan Offered by Public Agency Where Non-public School is Located – 7-34-5.

- Parental consent required for initial provision of special education services.
- Subsequent years, service plan must be implemented unless parent specifically declines, or the student has Choice Scholarship Education Plan (CSEP) or Education Scholarship Account Education Service Plan (ESA-SP).
- CCC convened annually for student receiving services under a service plan each of its students with disabilities – 511 IAC 7-34-5.

PARENTALLY-PLACED NON-PUBLIC SCHOOL STUDENTS

CONTINUED

Service Plan Offered by Public Agency Where Non-Public School is Located – 511 IAC 7-34-5

Reevaluate Every Three years – 511 IAC 7-34-3 – Timelines and Procedures Set Forth in 511 IAC 7-40

511 IAC 7-34-6 Pertaining to due process hearings.

511 IAC 7-34-7 (b)-Removed reference to facilities.

VIRTUAL NON-PUBLIC SCHOOLS

- Student considered to be attending a non-public school located within the school corporation of legal settlement – 511 IAC 7-34-1(e).
- Representatives of virtual non-public schools must be included in annual consultation process of each public agency that is the school corporation of legal settlement of a student with disabilities attending the virtual school – 511 IAC 7-34-4.
- Virtual school is responsible for notifying the school corporation of legal settlement of each of its students with disabilities – 511 IAC 7-34-4.

Compliance with Federal Law (IDEA) Updates

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SUPPORTS FOR PUBLIC AGENCY PERSONNEL – 511 IAC 7-35-2; 511 IAC 7-42-6

Deletes the current requirement that the CCC consider and specify if supports are needed for public agency personnel as this exceeds IDEA requirements.

- Public agencies are required to ensure that personnel have support and training, but personnel training needs are the responsibility of the public agency and not within the province or knowledge of parents or the CCC.

COMPLIANCE WITH FEDERAL LAW (IDEA)

Comprehensive and Coordinated Early Intervening Services (CCEIS) – 511 IAC 7-40-2(f); 7-40-5(d)

- Deletes 511 IAC 7-40-2(f) as this subsection has nothing to do with the requirements for CCEIS.
- Confusion due to no comparable federal requirement for expedited evaluations.

Notice by Electronic Mail – 511 IAC 7-40-9; 7-42-16

COMPLIANCE WITH FEDERAL LAW (IDEA) CONTINUED

Review and Revision of IEP without CCC Meeting – 511 IAC 7-42-9(f)

- Consistent with the U.S. Department of Education's Office of Special Education Programs (OSEP) and Office of Civil Rights (OCR) guidance, public agency must still provide prior written notice of IEP after agreement to revise without a CCC meeting.

Interim Alternative Educational Setting – 511 IAC 7-44-6

- Incorporates federal language to specify that behaviors (weapons, drugs, serious bodily injury) can also occur on the way to a school function.

FEDERAL CHILD COUNT PROCEDURES – 511 IAC 7-46-1

- Removes the requirement to report child count to U.S. Secretary of Education by February 1 annually.
- Requirement to report by the date established by the U.S. Department of Education.

Reevaluation Timeline Updates

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REEVALUATION TIMELINE

Reevaluation – 511 IAC 7-40-8

- Adds language to provide flexibility in the reevaluation timeline if the student changes schools during the time period for the reevaluation, similar to the flexibility provided for initial educational evaluations.

Related Services Updates

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RELATED SERVICES

Related Services – 511 IAC 7-43-1

- Adds to subsection (o) for psychological services authorizing a school psychologist to make a referral to a speech, language pathologist (SLP), an occupational therapist (OT) or a physical therapist (PT).
- Additional language added to subsection (u)(4) on transportation providing that transportation may be provided by appropriate vehicle if the CCC determines a school bus or special purpose bus cannot safely and adequately reach the student's loading and unloading location.

Dispute Resolution Updates

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DISPUTE RESOLUTION

Dispute Resolution – 511 IAC 7-45-0.5

- New section to require attorneys to utilize the electronic filing system.
- Pro se parents and complainants are encouraged, but not required, to utilize the secure electronic filing system.
- No correspondence, documents, or pleadings are to be sent by electronic mail.
- No correspondence, documents, or pleadings sent by email will be accepted by the department, complaint investigators, or IHOs in connection with dispute resolution.

MEDIATION – 511 IAC 7-45-2

- A purpose statement and a better explanation of the voluntary nature of mediation is added.
- Order of dispute issues is changed to match federal requirements.

DISPUTE RESOLUTION CONTINUED

Sufficiency – 511 IAC 7-45-4

- If IHO finds due process complaint to be insufficient, the IHO must provide a date by which the petitioner can amend;
- Adds clarifying language that for reasons other than insufficiency, a party can amend only if the other party consents in writing; or
- The party files a motion identifying reasons for the proposed amendment and the IHO grants permission

Response – 511 IAC 7-45-5

- Adds: if responding party is the public agency, it shall provide parent and IHO a copy of all IEPs and evaluations during the two years immediately preceding the request.

RESOLUTION PROCESS – 511 IAC 7-45-6

- Change focus to resolution process and not just meeting.
- Clarifies that both the parent and public agency determine relevant members of the CCC to attend resolution meeting.
- Deletes “resolution” from “resolution agreement” to reflect requirements and intent of IDEA regulations.
- Clarifies that the parent may use the complaint process to enforce an agreement reached during the resolution process.

DISPUTE RESOLUTION ADDITIONS AND CHANGES

Prehearing Procedures – 511 IAC 7-45-6.5

- New section to more specifically address prehearing procedures incorporating many of the requirements of the Administrative Orders and Procedures Act (AOPA), IC 4-21.5-3.

Expedited Due Process Hearings – 511 IAC 7-45-10

- Removes the provision which permits the parties to agree to take an expedited hearing out of the expedited timelines as this is contrary to IDEA and federal guidance.
 - <https://sites.ed.gov/idea/idea-files/osep-memo-and-qa-on-dispute-resolution/>

Choice Scholarships Updates

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CHOICE SCHOLARSHIPS

Definitions – 511 IAC 7-49-2

- Adds definition for “local school corporation” to provide clarification as to the school responsible for developing and offering a service plan and responsible for reevaluations.

Choice Special Education Plan – 511 IAC 7-49-4

- Special education and related services, instead of accommodations, added to the components of the service plan consistent with IDEA.

Proportionate Share – 511 IAC 7-49-10

- Deletes subsections (c), (d), and (e) as they have nothing to do with proportionate share and only serve to confuse.

Adding in Education Scholarship Account Education Service Plan Rule

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EDUCATION SCHOLARSHIP ACCOUNT EDUCATION SERVICE PLANS

Applicability – 511 IAC 7-50-1

- Education scholarship students, school corporations, and charter schools

Definitions – 511 IAC 7-50-2

- Account, education scholarship account education service plan, education scholarship student, eligible student, and legal settlement

Education Scholarship Account Education Service Plan – 511 IAC 7-50-3

- Parent determines whether service plan or ESA Education Service Plan.

EDUCATION SCHOLARSHIP ACCOUNT EDUCATION SERVICE PLANS

CONTINUED

Reevaluations, CCC Meetings, Participants – 511 IAC 7-50-4

- Reevaluated at least every three years, parent to request reevaluation

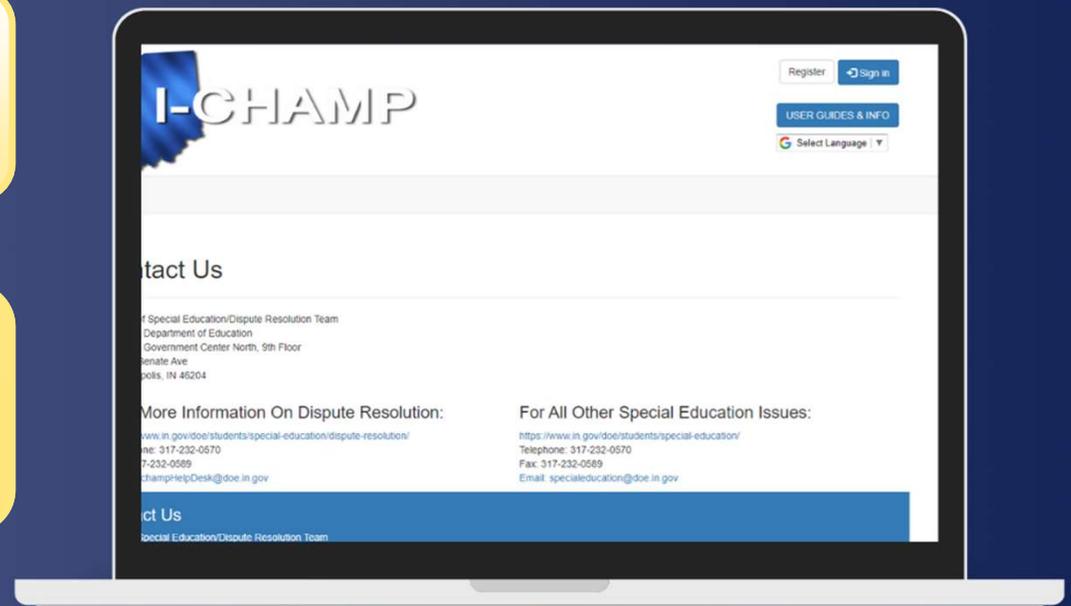
Enrollment in Public School – 511 IAC 7-50-5

- Terminates student's participation in plan

QUESTIONS AND COMMENTS

Please direct questions and comments to:

Dispute Resolution Team
ichamphelpdesk@doe.in.gov





THANK YOU!