



INDIANA DEPARTMENT *of* EDUCATION

Navigating the Course:

Finding Your Way through Indiana's Special Education Rules

DISPUTE RESOLUTION TEAM

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Acronym Index

ASD	Autism Spectrum Disorder	LRE	Least Restrictive Environment
BIP	Behavior Intervention Plan	LI	Language Impairment
BLV	Blind or Low Vision	MD	Multiple Disabilities
CCC	Case Conference Committee	M-Team	Multidisciplinary Team
CSEP	Choice Scholarship Education Plan	NOPS	Notice of Procedural Safeguards
CD	Cognitive Disability	OHI	Other Health Impairment
DB	Deaf-Blind	OI	Orthopedic Impairment
DD	Developmental Delay	OT	Occupational Therapy
DHH	Deaf or Hard of Hearing	PAR	Public Agency Representative
ECA	End of Course Assessment	PLAAFP	Present Levels of Academic Achievement and Functional Performance
ED	Emotional Disability	PII	Personally Identifiable Information
EI	Educational Interpreter	PT	Physical Therapy
ESA	Education Scholarship Account	RTI	Response to Intervention
ESA-SP	Education Scholarship Acct Service Plan	SBOE	State Board of Education
ESY	Extended School Year	SCOLS	School Corporation of Legal Settlement
FAPE	Free Appropriate Public Education	SI	Speech Impairment
FBA	Functional Behavior Assessment	SLD	Specific Learning Disability
FERPA	Family Education Rights and Privacy Act	SOP	Summary of Performance
IAC	Indiana Administrative Code	SP	Service Plan
IAES	Interim Alternative Education Setting	TBI	Traumatic Brain Injury
ID	Intellectual Disability	TOR	Teacher of Record
IDEA	Individuals with Disabilities Education Act	TOS	Teacher of Service
IDOE	Indiana Department of Education		
IEE	Independent Educational Evaluation		
IEP	Individualized Education Program		
IFSP	Individual Family Service Plan		
ISTAR	Indiana Standards Tool for Alternative Reporting		

SECTION I: INTRODUCTION

The purpose of Navigating the Course is to provide an overview and a practical resource to help parents, advocates, school personnel, and students understand the requirements of Indiana's special education rules, found within 511 Indiana Administrative Code (IAC) 7-32 through 50, commonly known as Article 7. It is intended to serve as a companion guide to Article 7 and is not a substitute for Article 7. Please refer to Article 7 for the specific language of the special education rules. Copies may be downloaded from the Indiana Department of Education's (IDOE's) website at: <https://www.in.gov/doe/files/Special-Education-Rules-Title-511-Article-7-May-2024.pdf>

There are many decisions to be made for each student with a disability, and it is essential that these decisions are based on all information available. Parents have valuable and unique information about their student's needs. Teachers and school personnel can provide valuable expertise and classroom-based data from their daily work. Students themselves may also be consulted and actively involved in the decision-making process as appropriate.

Because all students receiving special education and related services from a public agency must have an individualized education program (IEP) or service plan (SP), the parent and school personnel have a unique opportunity for partnership. Many students participate in special education from the ages of three to 22 and partnerships between the parent and the school may last many years. Good communication is essential to the ongoing success of this partnership.

Parent – Throughout *Navigating the Course* the term parent is used. The term is defined in Article 7 as any of the following: A biological or adoptive parent, whose parental rights have not been terminated or restricted; an authorized guardian; a foster parent; an individual with legal custody or acting in the place of the biological or adoptive parent; an educational surrogate; a student of legal age; or an educational representative. For clarity, this document will use the term parent to mean any individual defined as a parent under 511 IAC 7-32-70.

Article 7

Article 7 (511 IAC 7) is the part of the IAC that contains Indiana's special education rules. The rules have been adopted by the Indiana State Board of Education (SBOE) in order to implement the requirements of the IDEA.

Six major concepts of IDEA are:

- Free Appropriate Public Education (FAPE),
- Appropriate education evaluations,
- Individualized Education Program (IEP),

- Least Restrictive Environment (LRE),
- Notice of Procedural Safeguards (NOPS), and
- Parent participation in decisions made by the Case Conference Committee (CCC).

IDEA requires the public school to provide students with disabilities with a FAPE in the LRE and requires IDOE to have rules, policies, and procedures to ensure the rules contained in IDEA are fulfilled.

Article 7 describes the school's responsibility to provide a FAPE to a student with a disability found eligible for special education and related services, including evaluating the student, working with the parent as part of the CCC to develop an IEP that meets the unique needs of the student, implementing the student's IEP, and ensuring that NOPS are provided. It also describes rights and responsibilities of the parent as a participant in identifying the student's needs and the special education and related services that the public school will provide to meet those needs. The rules in Article 7 address: definitions; programs and personnel; disability categories and eligibility; evaluations; CCC meetings; IEPs; related services; services to students in nonpublic schools, including students with choice special education plans and education scholarship account education service plans; discipline; due process procedures; child and data collection; and funding for excess costs.

PARENT RESPONSIBILITIES:

Before a student can receive a FAPE, the parent must:

- Give written consent for educational evaluations of the student (511 IAC 7-40-4(h); 511 IAC 7-40-8(j) (consent for reevaluations)); and
- Give written consent for the school to implement the student's initial IEP (511 IAC 7-42-7(f)).

Special Education Overview

Article 7 requires that each eligible student with a disability enrolled in a public school between the ages of three and 22 be provided with a FAPE. A FAPE means special education and related services that are provided at public expense, under public supervision and direction which meet state standards, and are in accordance with an IEP.

A student with a disability is a student who has been evaluated in accordance with Article 7 and determined eligible for special education and related services by a CCC.

Special education is specially designed instruction provided to a student who has been determined eligible as a student with a disability through an educational evaluation to meet the unique needs of the student. It must be provided at no cost to the parent and in accordance with the student's IEP. It is the responsibility of the CCC to determine the special education and related services that are appropriate considering the student's individualized educational needs.

Related services are services such as occupational therapy (OT), physical therapy (PT), an educational interpreter (EI), transportation, etc. that are necessary to assist the student in benefitting from special education.

“At no cost” means that all specially designed instruction is provided without charge to the parent. The school may charge fees that are normally charged to nondisabled students as a part of the general education program, such as textbook rental fees and fees for consumable materials.

The CCC is a group of individuals, including the parent and school personnel, that determines if the student is eligible for special education and if so, determines the special education and related services to be provided to the student. The CCC must meet at least annually.

An IEP is the written document, developed by the CCC, describing how the student will access the general education curriculum, if appropriate, and the special education and related services needed to enable the student to participate in the educational setting.

Special education and related services must be provided in the LRE, meaning a student with a disability is educated with students without disabilities to the maximum extent appropriate.

SECTION II: IDENTIFICATION, REFERRAL, INITIAL EVALUATION, REEVALUATION, INDEPENDENT EDUCATIONAL EVALUATION (511 IAC 7-40)

Overview

For a student to be eligible for special education and related services, the CCC must determine, based on the evaluation results that the child:

- is a student with a developmental delay, or that a student’s disability or impairment adversely affects the student’s educational performance, and
- needs special education or related services.

Educational Evaluation – A variety of procedures, including assessments, used to provide information about a student’s disability or suspected disability for the student’s CCC to determine (1) whether a student is eligible for special education and related services, and (2) if eligible, the nature and extent of the special education and related services that the student needs.

The purpose of an educational evaluation is to assess areas of educational need, including academic achievement and functional performance. The school must ensure that the method it uses to assess the student provides meaningful information that directly helps the CCC make decisions regarding eligibility and educational services.

After parental consent is provided, an M-Team, will conduct a comprehensive educational evaluation. An M-Team is a group of qualified professionals who conduct the educational

evaluation, and must include a teacher licensed in, or other specialist with knowledge in, the area of suspected disability. Depending on the area of suspected disability, the M-Team may also include: a general education teacher; a special education teacher; a school psychologist; a speech language pathologist; or other qualified professional based on the student's unique needs or suspected disability. The parent plays an important role with the M-Team by providing input and information about the student.

When the educational evaluation is completed, the CCC convenes to review the evaluation results and determine if the student is eligible for special education and related services. There are various timelines, notices, and procedural safeguards throughout the referral and evaluation process to ensure that the evaluation is completed in a timely manner and that the parent is informed of the educational evaluation results.

A student may be found eligible for special education and related services in one or more of the 13 disability categories:

- Autism Spectrum Disorder (ASD)
- Blind or Low Vision (BLV)
- Deaf or Hard of Hearing (DHH)
- Deaf-Blind (DB)
- Developmental Delay (DD)(ages three through eight only)
- Emotional Disability (ED)
- Intellectual Disability (ID)
- Language Impairment (LI) or Speech Impairment (SI)
- Multiple Disabilities (MD)
- Other Health Impairment (OHI)
- Orthopedic Impairment (OI)
- Specific Learning Disability (SLD)
- Traumatic Brain Injury (TBI)

For more detailed information on the individual disability categories, see 511 IAC 7-41-1 through 7-41-13 in Article 7.

Timeline for Completing the Educational Evaluation general rule: The evaluation must be completed and the CCC convened within 50 instructional days from the date written parental consent is received.

Exceptions:

- For a student transitioning from First Steps (an early intervention service), an evaluation must occur and the CCC convene between nine months prior to and 90 days prior to the student's third birthday. The evaluation cannot take more than 50 instructional days to complete. The services must be made available to the student by the student's third birthday.
- For a student who moves while the evaluation is pending, the new school must complete the educational evaluation promptly and within a time period agreed upon by the school and the parent.
- For a student referred for an initial evaluation during the time the student is

suspended, expelled, or placed in an IAES the timeline is 20 instructional days. For a student whose parent repeatedly fails to make the student available for the educational evaluation.

Initial Evaluation Request, Written Notice, and Consent (511 IAC 7-40-4)

Request

The process begins with a request, by school personnel or the parent, that the student be evaluated for a suspected disability. A parent's request must be made, verbally or in writing, to licensed personnel, such as a teacher, school counselor, school psychologist, school social worker, principal, other administration, or special education director. While not required, it is always a good idea for the parent to put the request in writing.

Written Notice

Within 10 instructional days after the parent makes a request to licensed personnel for an educational evaluation, the school must provide the parent with written notice responding to the request, as well as a copy of the NOPS. If the school makes the referral for the evaluation, the school must provide the parent with written notice. The school's response must include all components of 511 IAC 7-40-4(e):

Written notice must include:

- A statement that the school is proposing or refusing to conduct the educational evaluation and include a description of each evaluation procedure, assessment, record, or report the school used as a basis for proposing or refusing to conduct the educational evaluation.
- A description of other factors relevant to the school's proposal or refusal to conduct the educational evaluation.
- If the school is proposing to conduct the educational evaluation, a description of the evaluation procedures; the timeline for conducting the educational evaluation and convening the CCC; an explanation of how to request a copy of the educational evaluation report, and/or a meeting with an individual who can explain the results of the educational evaluation prior to the CCC meeting. Note, at the request of the parent, the school must provide a copy of the initial evaluation report at least five instructional days before the CCC meeting; if the parent requests to have the results explained prior to the scheduled CCC meeting, the school must arrange a meeting with the parent and an individual who can explain the evaluation results within five instructional days prior to the CCC meeting.
- If the school is refusing to conduct the educational evaluation, an explanation of the parent's right to contest the agency's decision by requesting mediation or a due process hearing. However, while not required, in an effort to better understand the school's position and perhaps reach an agreement on the requested evaluation, the parent may wish to meet with representatives from the school to talk with school personnel before deciding upon further action.

- A statement that a parent of a student with a disability has protections under the procedural safeguards and a copy of the NOPS.
- A list of sources for the parent to contact to obtain assistance with understanding Indiana’s Article 7.

“Day” can mean different things in Article 7

- **Day:** means a calendar day unless otherwise indicated.
- **Business day:** Monday-Friday, except federal and state holidays
- **Instructional day:** Any day or part of a day that students are expected to be in attendance.

Parental Consent

Before the school can conduct the evaluation, the parent must provide written consent. Although parental consent is required for an initial educational evaluation, the school is not required to obtain parental consent to:

- Review existing data as part of an educational evaluation,
- Administer tests or other evaluations administered to all students unless parental consent is required for all students,
- Screen students if school personnel uses the information to determine appropriate instructional strategies, or
- Collect progress monitoring data as part of the RtI process.

Right to Refuse Evaluation

The parent has the right to refuse an evaluation. The school may, but is not required to, ask the parent to participate in mediation or request a due process hearing if the parent of a student enrolled at the school refuses to provide written consent for an educational evaluation or fails to respond to the school’s reasonable documented efforts to get consent. If the parent does not provide written consent and the school does not pursue mediation or a due process hearing, the school cannot conduct the educational evaluation.

The school has the right to refuse an evaluation. If the school is refusing to conduct the educational evaluation, a parent may challenge the school’s refusal by requesting a mediation or a due process hearing.

Conducting the Educational Evaluation

The M-Team reviews existing information related to the student and input from the parent. Through this review process the M-Team identifies the suspected disability or disabilities and determines whether additional information is needed to help the CCC determine whether the student is eligible for special education and related services. This process may include administering tests, conducting observations, and collecting information from a variety of sources. The M-Team must complete its evaluation and the CCC must convene a meeting within 50 instructional days from the date written parental consent is provided to licensed school personnel.

Disagreement with the Educational Evaluation

If the parent disagrees with the educational evaluation, the parent may request an independent educational evaluation (IEE) be conducted at public expense. See the [IEE section](#) below for more information on this process.

Reevaluation (511 IAC 7-40-8)

Once the student is eligible for special education and related services, any subsequent evaluation of the student is considered a reevaluation even if the student is being evaluated because a different or additional eligibility category is suspected. The school must consider the potential need for a reevaluation at least once every three years.

However, the reevaluation may be waived if the parent and school agree that a reevaluation is unnecessary. This is also true in the case of a parentally-placed nonpublic school student who has an ESA-SP. For more information, please see the [ESA-SP section](#) below.

The CCC, the parent, or the school may request a reevaluation at any time if additional information is needed to address the special education or related services needs of the student or an additional area of disability is suspected. If the parent requests a reevaluation, the request may be made verbally or in writing to licensed personnel. While not required, it is always a good idea for the parent to put the request in writing.

Written parental consent must be sought before the school can conduct the reevaluation. However, if the parent fails to respond to the school's request for consent, the school may conduct the reevaluation without parental consent. The school must document in detail the attempts made to obtain written consent from the parent. If the parent refuses to consent to a reevaluation, the school has the option, but is not required, to pursue mediation or a due process hearing.

Written Notice

Before conducting a reevaluation the school must provide the parent with written notice. The school's response must include all components of 511 IAC 7-40-8(g):

Written notice must include:

- A statement that the school is proposing or refusing to reevaluate the student and include a description of each evaluation procedure, assessment, record, or report the school used as a basis for proposing or refusing to reevaluate.
- A description of other factors relevant to the school's proposal or refusal to reevaluate.
- If the school is proposing to reevaluate, a description of the reevaluation process; the timeline for conducting the reevaluation and convening the CCC.
- If the school is refusing to reevaluate, an explanation of the parent's right to contest the agency's decision by requesting mediation or a due process hearing. However, while not required, in an effort to better understand the school's position and perhaps reach an agreement on the requested reevaluation, the parent may wish to meet with representatives from the school to talk with school personnel before deciding upon further action.

- A statement that a parent of a student with a disability has protections under the procedural safeguards and information regarding how a copy of the NOPS can be obtained.
- A list of sources for the parent to contact to obtain assistance with understanding Indiana's Article 7.

Conducting the Reevaluation

The reevaluation must occur and the CCC convened within 50 instructional days of the date that written parental consent was received by licensed personnel. However, this time frame does not apply when a student enrolls in another public school corporation after the 50 instructional day timeline has begun and prior to completion of the reevaluation, so long as the new school makes sufficient progress to ensure prompt completion of the reevaluation and the parent and new school agree to a specific time when the reevaluation would be completed.

Independent Educational Evaluation (511 IAC 7-40-7)

If the parent disagrees with the school's evaluation the parent may request an IEE at public expense. An IEE is an evaluation conducted by a qualified professional who is not an employee of the school. If the school agrees to an IEE, the school must provide the parent with information on where the IEE may be obtained; and the school's criteria, including the location of the evaluation and the qualifications of the evaluator. The school's criteria should be the same as the criteria the school uses while remaining consistent with the parent's right to obtain an IEE. Within 10 business days of the parent's request for an IEE at the public's expense, the school must either:

- Notify the parent in writing that the school will pay or otherwise ensure the IEE is provided at no cost to the parent; or
- Initiate a due process hearing in which the school must show that the school's educational evaluation is appropriate.

If an IEE is at public expense, a copy of the IEE must be received by the school and considered by the student's CCC.

If the parent obtains an IEE at the parent's own expense, the parent may choose whether to share the IEE with the CCC. If the parent shares the IEE and it meets the school's criteria, the CCC must consider that information in making decisions about the student's educational needs. A student is entitled to one IEE at public expense each time a school conducts an educational evaluation in which the parent disagrees.

Comprehensive and Coordinated Early Intervening Services (511 IAC 7-40-2)

Article 7 permits schools to implement a process known as comprehensive and coordinated early intervening services. Early intervening services are provided to students who have not been identified as needing special education and related services, but who need additional academic and behavioral support to succeed in the general education classroom. The use of comprehensive and coordinated early intervening services cannot delay an initial educational evaluation of a student suspected of having a disability.

SECTION III: CASE CONFERENCE COMMITTEE (511 IAC 7-42-1 THROUGH 7-42-5)

Case Conference Committee (CCC) – The CCC is a group of individuals, including the parent and school personnel, that determines if the student is eligible for special education and, if so, determines the special education and related services to be provided to the student.

Case Conference Committee Participants (511 IAC 7-42-3)

The CCC must include:

- A representative of the school (sometimes referred to as the PAR) who:
 - Knows about the school's resources and has the authority to commit or expend them;
 - Knows about the general education curriculum; and
 - Can provide or supervise the provision of specially designed instruction to meet the unique needs of a student with a disability.
- The student's TOR or a teacher licensed in the area of the student's suspected disability if the student has not yet been determined eligible. For a student with a language or speech impairment only, the speech and language pathologist is a required participant;
- At least one of the student's general education teachers, unless it is certain that the student is not or will not be participating in the general education environment;
- A person able to describe what the evaluation information means; and
- The parent of a student less than 18 years of age or the student of legal age.

School personnel may fulfill more than one role in the CCC meeting. For example, the student's TOR may also serve as the PAR if the TOR otherwise meets the PAR requirements.

If the purpose of the CCC meeting is to develop or revise the transition IEP, the student must be invited.

Depending on the purpose of the meeting, the CCC must include other individuals.

If the CCC is to determine the initial eligibility of a student, then at least one qualified professional who is a member of the M-Team that evaluated the student must be present and a teacher or teachers licensed in each area of the student's suspected disabilities.

Case Conference Committee Meetings (511 IAC 7-42-5)

The CCC must meet:

- Within the stated timeline for an initial evaluation or reevaluation;
- At least annually;

- When requested by the parent or school personnel if it is believed that a required component of the student's individualized education should be changed to ensure the provision of FAPE;
- Within 10 instructional days of the date a student with a disability enrolls from another school district or state;
- Within 10 instructional days of a disciplinary change of placement;
- To determine an interim alternative education setting (IAES); and
- Every 60 instructional days when a student with a disability has been placed on full time homebound services or another out-of-school alternative location.

The school schedules the CCC meeting at a "mutually agreed upon time, date and place."

Notification of Case Conference Committee Meetings (511 IAC 7-42-2)

Once the CCC meeting is arranged, the school will send a written notice that includes the date, time, location, purpose, and the names and titles of participants expected to be in attendance to the parent of the student as defined in 511 IAC 7-32-70. The notice must also advise the parent of the right to invite anyone with special knowledge or expertise about the student.

If the parent wants to participate but is unable to attend in person, the school should ensure parental participation through other methods. The school must document all attempts to arrange for parental participation and any response received from the parent.

If the parent chooses not to participate, either in person or by other means, the school may conduct the CCC meeting without the parent. However, before the school can do this, it must make reasonable efforts to encourage the parent to participate, and it must document its efforts (such as telephone calls, emails, letters, home visits, etc.).

Excusing Participants from All or Part of the Case Conference Committee Meeting (511 IAC 7-42-3(g) and (h))

In some circumstances, a required member may be excused from all or part of the CCC meeting if the school and the parent agree in writing that the member's attendance is not necessary. However, if that member's area of curriculum or related services will be discussed or modified during the meeting and the member will miss the meeting, in whole or in part, unless the member is present for the part of the meeting that involves the discussion of the member's area of the curriculum or related services, the member must provide input in writing to the parent and the other CCC members prior to the meeting and the parent must provide written consent for the excusal. If the parent does not agree to excuse a required member of the CCC, the required member must participate in the CCC meeting or the meeting must be rescheduled.

TIP:

The parent may agree, in writing, to excuse a required participant or may request that the CCC meeting be rescheduled to a time when that participant can be present.

If the parent chooses not to participate, either in person or by other means, the school may conduct the CCC meeting without the parent in accordance with 511 IAC 7-42-2(b).

Case Conference Committee Responsibilities (511 IAC 7-42-5(a)(2); 511 IAC 7-42-6)

The CCC is responsible for:

- Reviewing the educational evaluation report and determining a student's eligibility for special education and related services (for initial evaluations and any subsequent reevaluation of the student);
- Reviewing the student's present levels of educational performance and any progress monitoring information that is available;
- Developing, reviewing, and revising a student's IEP;
- Determining appropriate special education and related services;
- Determining where, when, and how long the services will be provided; and,
- Addressing other matters that relate to providing the student with a FAPE.

Case Conference Committee Decision Making

Information about the student is shared with and by all CCC members. Each member can offer input into and participate in the discussion about the decisions to be made, such as:

- Is the student eligible as a student with a disability?
- If so, under what disability category or categories?
- If eligible, what are the student's educational needs, and what special education and related services are appropriate to meet the student's needs?

A CCC meeting is not a meeting controlled by a vote of 'majority rule.' Ultimately, decisions of the CCC should be based upon the input of all members of the CCC, including considering parental participation and input.

After the initial evaluation the school must provide the parent with written notice about any action it is proposing or refusing to take with regard to the student's identification, evaluation, eligibility, services, placement, or anything else affecting the provision of a FAPE. Most schools use the IEP to fulfill the written notice requirement. The school must provide this notice regardless of whether there was agreement between the parent and the school. Before the school can implement the services described in the initial IEP, the parent must provide written consent.

The act of signing the IEP serves as written consent.

After any subsequent CCC meetings, the school must provide the parent with written notice about any action it is proposing or refusing to take with regard to the student's identification, evaluation, eligibility, services, placement, or anything else affecting the provision of a FAPE. Most schools use the IEP to fulfill the written notice requirement. The school must provide this notice regardless of whether there was agreement between the parent and the school. After the initial IEP, parental signature is not required, and the IEP will go into effect on the 11th instructional day after the parent is provided notice. If the parent wants the IEP to go into effect before the 11th instructional day after the parent is provided notice, the parent would need to sign the IEP for early implementation.

Although written parental consent is not required for a school to implement IEPs after the initial IEP, a parent has the right to challenge the IEP before it is implemented by asking for and participating in a meeting with a school official, initiating mediation, or requesting a due process hearing. If a parent does not challenge the proposed IEP within 10 instructional days of receipt of the IEP, the school may implement the proposed IEP. How to challenge the IEP is explained further in [Section IV: Challenging the IEP](#).

Being a CCC member may seem intimidating or overwhelming to a parent. The following are some tips that have been offered to help the parent feel more comfortable during CCC meetings:

- Make a list of questions so you don't forget them during the CCC meeting;
- If there is an evaluation report, talk with someone who can explain it in easy to understand terms;
- If this is an initial CCC meeting to determine eligibility, request a copy of the evaluation report prior to the meeting and ask for a meeting with an individual who can explain the results of the evaluation report;
- Talk with the student's teacher or other school personnel before the meeting;
- Talk to other parents who have participated in CCC meetings; and
- Take someone with you who knows the student.

SECTION IV: INDIVIDUALIZED EDUCATION PROGRAM (511 IAC 7-42-6 THROUGH 7-42-10 AND 511 IAC 7-43-1)

IEP Development (511 IAC 7-42-6)

If the CCC determines the student is eligible for special education and related services, the next step is for the CCC to develop an IEP.

IEP – The written plan that describes how the student will participate in the general education curriculum (if appropriate) and identifies the special education and related services that the school will provide to the student.

The CCC develops the IEP after considering all available information about the student and must consider the following general factors:

- The student's strengths;
- Parental concerns;
- The results of any recent educational evaluations or assessments; and
- The student's academic, developmental, communicative, and functional needs.
- In addition, the CCC must consider special factors (when applicable) such as:
- Positive supports and interventions when a student's behavior affects the student's learning or the learning of others;
- A need for assistive technology devices and services;
- Language needs of a student with limited English proficiency; or,
- Instructional and communication needs for a student whose vision or hearing is impaired.

Contents of the IEP (511 IAC 7-42-6(f))

An IEP must include the following:

- The student's present levels of academic achievement and functional performance (PLAAFP), which includes how the student's disability affects the student's involvement and progress in the general education curriculum or for early childhood education students, how the disability affects the student's participation in appropriate activities.
 - Academic achievement, may include, progress in reading, math, language arts, and other subject areas
 - Functional performance may include, physical skills, sensory responses, fine and gross motor skills; personal care; behavioral, social, and emotional skills; and independent living skills.
- Measurable annual goals that a student is expected to achieve by the next annual case review, including academic and functional goals designed to meet the student's needs to enable the student to make progress in the general education curriculum and each of the student's other educational needs that result from the student's disability.
- For a student who participates in alternative assessments, a description of benchmarks or short-term objectives.
- How the student's progress toward achieving the IEP goals will be measured.

- The CCC should discuss how often data will be collected, methods to collect the data, and the type of data that will be collected.
- Information on when the school will provide the parent with periodic reports on the student's progress toward meeting the annual goals.
- A description of the special education and related services and supplementary aids and services that will be provided to the student and a statement of the modifications or supports for school personnel that will be provided to enable the student to:
 - Advance appropriately toward attaining the annual goals.
 - Be involved in and make progress in the general education curriculum; and
 - Be educated and participate with other students with and without disabilities.
- An explanation of the extent, if any, to which the student will not participate with nondisabled students in the general education environment and in extracurricular and other nonacademic activities.
- A statement concerning the student's participation in statewide or local assessments of student achievement, including:
 - Any appropriate accommodations necessary to measure the academic achievement and functional performance of the student;
 - If the CCC determines the student will participate in an alternate assessment, a statement of why the student cannot participate in the general assessment, why the particular alternate assessment is appropriate, and documenting that the school informed the parent that the student's performance will not be measured against grade-level academic achievement standards.
- The projected date the services will begin and end, and the length, frequency, location, and duration of the services and modifications:
 - The dates of when the school expects services to begin and end;
 - How often the services and supports will occur;
 - How long each service or support will last; and
 - Where the student will receive the service or support.
- The student's need for ESY services:
 - ESY services mean special education and related services that are provided to a student beyond the normal school year or instructional day.
 - The CCC decides, based on the student's educational needs, if a student needs ESY services.
 - If the CCC decides the student needs ESY services, the services must be described in the student's IEP.
 - This description must be specific enough that all involved with the student understand the ESY services to be provided and when they will occur.
- The student's placement in the LRE.
- Written notes to document the CCC meeting including the date and purpose of the meeting; names and titles of the participants; and the issues discussed during the meeting. The written notes may also contain the rationale for various decisions and

other educationally relevant information considered by the CCC as well as additional concerns of the parent brought up during the course of the meeting.

- Not later than one year before a student turns 18, the parent and the student must be notified that the parental rights will transfer to the student when the student turns 18. The statement that the parent and student have been notified of this transfer must be documented in the IEP (see [Section VI: Preparing for Transition from School to Adult Life](#)).

Related Services

A related service is a developmental, corrective, or other supportive service that is provided to help a student benefit from the special education program. Transportation is also a related service. The CCC decides what related services, if any, a student needs. For example, a student who is deaf or hard of hearing may need an educational interpreter in order to participate in the school setting. Or, if a student who is orthopedically impaired needs physical therapy to help the student learn to get around the school more independently, this would be considered a related service.

The IEP must state the type of related service to be provided, when the service will begin and end, how frequently the service will be provided (daily, weekly, monthly, etc.), the length of the service (15 minutes, 30 minutes, one hour, etc.), and where the service will be provided. The IEP should be specific and detailed enough so that both the parent and school personnel can clearly determine how much of a service the student should be receiving at any one time during and throughout the school year.

Accommodations and Modifications

Students with disabilities may require instructional or testing accommodations. An accommodation “levels the playing field” without changing the content of what is being taught or tested. An accommodation is “intended to reduce or eliminate the effects of a student’s disability,” but does not reduce what the student is expected to learn.

In order for a student to receive an accommodation on standardized assessments, the accommodation must be required and used routinely in classroom situations. It is not permissible to use an accommodation during high stakes testing situations if the accommodation is not required, based on the student’s disability, routinely in classroom assessments.

On some standardized tests, some accommodations are not allowed because the accommodations may affect the validity of the test scores. However, there is no limitation on accommodations that can be provided to the student in other situations to support classroom learning on functional assessments. Appropriate accommodations for the state assessment programs are set forth in the program manual issued each year by IDOE. For district assessments, the school must develop guidelines for the provision of appropriate accommodations that do not invalidate scores.

A modification means changes to course content, required work, or instructional level. Modifications change the learning goal for an individual student and are used when the general curriculum is too advanced for the student.

NOTE: Accommodations When Taking Statewide Assessments – Certain accommodations are allowed for students with an identified disability during the administration of statewide assessments. However, there are some accommodations that are not permitted, even if the accommodation is listed in the student’s IEP as an accommodation used throughout the student’s education program.

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

The student’s placement in the LRE. To the maximum extent appropriate, a student with a disability is educated with nondisabled peers. Removal from the general education classroom environment occurs only if the nature and severity of the student’s disability is such that education in general education classes using supplementary aids and services cannot be satisfactorily achieved.

- If the CCC decides that a student needs supplementary aids and services in order to participate with nondisabled students in extracurricular or nonacademic activities, the CCC must include these in the IEP. If the CCC decides that there are times that the student will not participate with nondisabled students, the CCC must identify those situations in the IEP. This covers all educational, extracurricular, and other nonacademic activities offered by the school.
- The CCC determines the placement where the student will receive services. The student’s placement is:
 - Based on the student’s IEP;
 - Reviewed at least annually; and
 - In the school that the student would attend if not disabled, unless the IEP requires some other arrangement. If another arrangement is required, the placement should be as close as possible to the student’s home school.
- The school must take steps to make available to a student with a disability the variety of educational programs and services that are made available to nondisabled students, including:
 - Vocational education.
 - Art.
 - Music.
 - Industrial arts.
 - Consumer and homemaking education.
 - Field trips.
 - Convocations.

- The school must take steps, including providing the disabled student with supplementary aids and services that the CCC determined appropriate and necessary, to afford the student with a disability an equal opportunity for participation in nonacademic and extracurricular services and activities. The school must ensure that the student with a disability participates with nondisabled students in the extracurricular services and activities to the maximum extent appropriate to the needs of that student. Nonacademic and extracurricular services and activities may include the following:
 - Meals and recess.
 - Athletics.
 - Recreational activities.
 - Special interest groups or clubs sponsored by the school.
 - Graduation ceremonies.
 - Employment of students, including employment by the public agency and assistance in making outside employment available.
- Written notes to document the CCC meeting including the date and purpose of the meeting; names and titles of the participants; and the issues discussed during the meeting. The written notes may also contain the rationale for various decisions and other educationally relevant information considered by the CCC as well as additional concerns of the parent brought up during the course of the meeting.
 - Not later than one year before a student turns 18, the parent and the student must be notified that the parental rights will transfer to the student when the student turns 18. The statement that the parent and student have been notified of this transfer must be documented in the IEP (see [Section VI: Preparing for Transition from School to Adult Life](#)).

Teacher of Record

Each student with a disability must have a TOR identified and assigned to the student. The TOR may also be a TOS for the student. The TOR must be appropriately licensed or trained to work with the student. The TOR's responsibilities include:

- Providing special education and related services to the student according to the student's IEP.
- Participating in the CCC meeting as the student's teacher to assist in developing measurable goals, benchmarks, and objectives to meet the student's needs.
- Monitoring the implementation of the IEP and providing progress reports to the parent.
- Ensuring all staff responsible for implementing the student's IEP have access to it and know their responsibilities for ensuring the IEP is implemented as written.
- Ensuring all supplementary aids and services, program modifications, supports for school personnel, and accommodations on statewide or districtwide assessments are

- provided as required in the student's IEP.
- Serving as a consultant and resource person for personnel who are working with the student.
 - Participating in reevaluations of the student.
 - Ensuring the relevant personnel, including the CCC, are notified of any changes to the student's IEP.

Teacher of Service

A TOS is any teacher who provides services to a student with a disability. A TOS could be a general education classroom teacher or a special education teacher who provides instruction to the student. The student's teacher of record may also be a TOS.

Positive Behavioral Interventions, Strategies, and Supports

When the student's behavior interferes with the student's learning or the learning of other students then the student's CCC should consider whether conducting a functional behavior assessment (FBA) is appropriate.

An FBA looks beyond the behavior itself and focuses on identifying significant, student-specific social, emotional, intellectual, and environmental factors associated with the specific behaviors. The FBA offers a better understanding of the function or purpose behind the student's behavior.

Functional Behavioral Assessment (FBA) – An FBA is a process where data is collected and used to identify both a pattern of behavior and the purpose or function of the behavior for the particular student. An FBA is considered an educational evaluation unless the FBA only reviews existing data regarding a student as specified in 511 IAC 7-40-3(b)(3).

A behavior intervention plan (BIP) is the plan agreed upon by the CCC and incorporated into a student's IEP. A BIP is based on an understanding of "why" a student exhibits a behavior and is an extremely useful tool in addressing a wide range of challenging behaviors. The CCC may develop a BIP to address behaviors or may address behaviors through goals and objectives that are a part of the student's IEP.

At minimum, the BIP describes:

- The student's pattern of behavior that interferes with the student's learning or the learning of others,
- The CCC's hypothesis of why the behavior occurs as identified in the FBA,
- The positive interventions, strategies, and supports that may be necessary to address

the behavior and make sure that interventions are consistently implemented across different settings and people; and,

- Any supports or technical assistance for staff that are necessary to ensure the plan is supported and implemented, and
- Any new skills that will be taught and how the student's progress will be monitored in order to change the student's pattern of behavior.

After IEP is Developed

The school must give the parent a copy of the student's IEP, at no cost, within 10 business days after the date of the CCC meeting. The school may give the parent the IEP at the end of the meeting or may mail the copy, as long as the parent receives the IEP no later than 10 business days after the CCC meeting. A parent may elect to receive the IEP by electronic mail if the school makes that option available.

Written parental consent must be obtained for the school to provide special education and related services for the first time. Once the parent has given initial written consent for the school to provide special education and related services, the school must continue to provide special education and related services included in the most recently agreed upon IEP unless the parent revokes consent for services. The school will continue to implement the prior IEP if the parent challenges the current IEP. The school cannot implement a newly developed IEP until the 11th instructional day after a public agency provides written notice to the parent unless the parent consents in writing to an earlier implementation date.

Once parental consent to begin services is given the parent should always be included in any future decisions recommended by the CCC. However, written consent from the parent is not required to revise the IEP. After the CCC meets to review and revise the IEP, the school must provide the parent with written notice before it can implement any of the proposed changes. This written notice must also inform the parent of what steps the parent may take, should the parent disagree with the proposed changes.

Written Notice

The school must provide the parent with a written notice before the school proposes to initiate or change the identification or educational placement of the student or the provision of FAPE; refuses to initiate or change the identification, educational placement of the student, or the provision of a FAPE; or revises the IEP by agreement without holding a CCC meeting. The school may use the IEP as part of its written notice. Written notice regarding these scenarios must include:

- A description of what the school is proposing or refusing to offer;
- A description of all of the information the school used in its decision-making (each evaluation procedure, assessment, record or report);
- An explanation of the school's decision;

- A description of any other options the CCC considered and why those options were rejected;
- A description of any other factors that are relevant to the school's proposal or refusal;
- An explanation that the parent has protection under the procedural safeguards and how to obtain a copy of the safeguards. The statement must also explain that after a public agency provides written notice regarding a proposed or refused action that is after the initial IEP, the parent may challenge the action proposed or refused by the public agency by requesting a meeting with an official of the public agency, initiating a mediation, or requesting a due process hearing;
- An explanation that if the parent takes an action to challenge the proposed IEP within the timeline, the school must continue to implement the student's current IEP (rather than the proposed IEP); and
- A list of resources for the parent to contact if the parent wants help in understanding the notice or other special education rules.

NOTE: The IEP may serve as the written notice if it contains all of the information described above.

Reviewing the IEP (511 IAC 7-42-5)

The CCC must meet to review the IEP at least once a year to see if the student is achieving the annual goals and revise the IEP, as needed, to appropriately address the student's educational needs. The CCC also meets:

- After a reevaluation has been conducted;
- Upon the request of the parent or school staff believes that a required component of the student's individualized education should be changed to ensure the provision of FAPE;
- At least every 60 instructional days for a student who receives special education and related services at home or in an alternate setting;
- When the school makes a disciplinary change of placement;
- To determine the IAES if a student is removed for serious offenses (weapons, drugs, or serious bodily injury); and
- Within 10 instructional days of the enrollment of a student who had an IEP in another state or Indiana school district.

Revising the IEP

If the CCC makes changes to a student's IEP, the school must provide the parent with written notice before it can implement the changes. Written consent from the parent is not required to revise the IEP. After communicating with the parent about the IEP changes being made, the school has to provide the parent with written notice before it can implement any of the proposed

changes. This written notice must also inform the parent of what steps they may take, should the parent wish to challenge the proposed changes. The school may give the parent the IEP, which may count as the written notice, at the end of the meeting, or may mail the copy as long as the parent receives the IEP no later than 10 business days after the CCC meeting. A parent may elect to receive the IEP by electronic mail if the school makes that option available.

If the CCC has completed its annual review of the IEP, the parent and the school may agree to make changes to the IEP without a CCC committee meeting. Any changes the CCC, including the parent agree to must be put in writing. If changes are made to the student's IEP by agreement not to convene, the school must provide the parent with written notice before it can implement the changes. The school should also note that there was an agreement by the parent to revise the IEP without convening a CCC meeting.

Challenging the IEP (511 IAC 7-42-7(b)(4) and 511 IAC 7-42-7(i))

After the initial IEP has been consented to, if the parent disagrees with the school's proposed or refused action, within 10 instructional days of receiving notice of the school's proposed or refused action, the parent must take one of the following actions:

- Request and participate in a meeting with someone from the district who has the authority to resolve the disagreement;
- Initiate mediation; or
- Request a due process hearing.

Note, the parent wants to challenge the IEP, the parent must do so prior to its implementation. The parent cannot challenge an IEP if the parent consented to implementation of that proposed IEP or after the 10th instructional day of the parent receiving written notice.

If the parent does not take any of the three actions, the school must implement the changes described in the written notice on the 11th instructional day after the parent receives the written notice about the IEP changes; this is not applicable for initial IEPs that require parental signature.

Implementing the IEP (511 IAC 7-42-8)

The school must implement the IEP as it is written and must provide the services described in the student's IEP:

- No later than 10 instructional days after the school receives the written parental consent to implement the initial IEP, or
- On the 11th instructional day after the parent receives the written notice of proposed changes to the IEP unless the parent
 - Has given the school written permission to implement the changes earlier, or
 - Has challenged the proposed IEP.
- By the student's third birthday if the student is moving from early intervention services (First Steps) to early childhood special education (see [Section V: Early Childhood Special Education](#)).

- The effective or start date indicated in the IEP in all other cases.

Revocation of Consent (511 IAC 7-42-15)

Any time after the parent has given the school permission to provide special education and related services, the parent may revoke consent. The parent may not revoke consent for fewer than all of the special education and related services included in the student's IEP. To revoke consent, the parent must state in writing that the parent is revoking consent for special education and related services and sign the written revocation of consent. This written, signed, statement from the parent must be given to licensed personnel, such as a teacher, principal, or special education director. Within 10 instructional days after receiving the revocation of consent, and before the school stops providing special education and related services, the school must provide the parent with written notice explaining the consequences of the request for revocation of consent.

All special education instruction, related services, accommodations, and any other services and supports provided to the student will stop 10 instructional days after the parent receives the written notice unless the parent gives consent to stop services sooner. The student will be instructed in the general education classroom and will receive education as a nondisabled student. After consent is revoked, neither the parent nor the student will be entitled to the protections or the safeguards under Article 7 or IDEA, except where protections for students not yet eligible apply. If the parent revokes consent for services and later wants to initiate services again, the parent must request an initial evaluation and go through the CCC process to determine if the student is eligible for services (see [Section II: Identification, Referral, Initial Evaluation](#)).

When an Eligible Student Moves (511 IAC 7-42-8(e) and (f))

For a student moving from one Indiana school district to another: When a student with an IEP moves from one Indiana school district to another within the same school year, in consultation with the parent, the current school must immediately provide the student with a FAPE. The current school must provide services similar to those described in the student's IEP from the previous school, until the CCC meets. The CCC must meet within 10 instructional days of the date the student enrolls in the current school and either adopt the student's IEP from the previous school or develop a new IEP.

For a student moving into an Indiana school district from another state: When a student with an IEP moves from one school district outside of Indiana to an Indiana school district within the same school year, in consultation with the parent, the current school must immediately provide the student with a FAPE, including services that are similar to the services provided by the out of state school district. If the school determines that an evaluation is necessary, it must request written consent from the parent to conduct a reevaluation of the student. The CCC must meet within 10 instructional days of the date the student enrolls in the current school and either adopt the student's IEP from the previous state's old school or develop a new IEP.

SECTION V: EARLY CHILDHOOD SPECIAL EDUCATION (511 IAC 7-36-5 AND 511 IAC 7-43-2)

Children who are three through five years of age, not yet eligible for kindergarten, and have a disability may be eligible for special education and related services provided by the public school.

Transitioning from First Steps to Early Childhood Special Education (511 IAC 7-43-2)

Children who participate in First Steps, Indiana's early intervention program for infants, toddlers, and their families, may be transitioned into an early childhood special education program at age three, with parental consent, if after an educational evaluation, the CCC determines the student eligible for special education and related services.

With parental consent, the First Steps provider must transmit the most recent IFSP report, family service plan report, and evaluation reports from any source to the public school at least six months prior to the student's third birthday.

By the time of the student's third birthday who may be eligible for early childhood special education, the public school must:

- Complete an evaluation of the student;
- Convene the CCC to decide if the student is eligible for special education and related services;
- Develop an IEP if the student is eligible for services; and
- On the student's third birthday, implement the IEP.

If the student's third birthday occurs during the summer, services must be provided during the summer if the CCC determines and the student's IEP requires extended school year (ESY) services. Otherwise, the IEP should indicate that services will start at the beginning of the school year.

Early Childhood Special Education Services for Student not Participating in First Steps

Children who are three through five years of age, not yet eligible for kindergarten, and have a disability may be eligible to receive services at age three, even if the child did not participate in the First Steps program. To receive services, the parent may contact the local school or SCOLS to request an initial educational evaluation. The parent will need to provide the school with written consent in order for the school to evaluate the child. Once the child is evaluated, the CCC will meet to determine the student's eligibility and, if eligible, develop an IEP for services.

Early Childhood Services

The student's CCC determines the number of hours per day and days per week of special education instructional time the student will receive. The CCC also determines whether the

student needs related services in order to benefit from the special education. The parent is an equal partner in the CCC meeting. Services are to be tailored to meet the unique developmental and educational needs of the individual student. The school cannot decide on its own (unilaterally) to limit the instructional time or services based on disability categories, the age of the student, or otherwise.

SECTION VI: PREPARING FOR TRANSITION FROM SCHOOL TO ADULT LIFE: TRANSITION IEP, TRANSFER OF RIGHTS, AND SUMMARY OF PERFORMANCE (511 IAC 7-43-3 THROUGH 7-43-7)

A transition IEP is required to be in effect when the student enters into ninth grade or becomes 14 years of age, whichever occurs first, or earlier if determined appropriate by the CCC. Among other things, a transition IEP contains measurable annual goals and services to help the student achieve measurable postsecondary goals in the areas of training; education; employment; and where appropriate, independent living skills.

Transition IEP (511 IAC 7-43-4)

The CCC must develop a transition IEP that will be in effect as soon as one of the following occurs:

- The student enters grade nine;
- The student turns 14; or
- Earlier if the CCC determines the need.

The student must be invited to transition CCC meetings. If the student does not attend any meeting, the school must ensure the student's interests and preferences are considered. In developing an appropriate transition IEP for the student, the school must collect and analyze data from age-appropriate transition assessments. Age-appropriate transition assessments are used to identify the student's strengths, preferences, and interests. The assessments also help identify transition services needed to assist the student in reaching the student's postsecondary goals. The CCC must use all of the information from the age-appropriate assessments when developing the student's transition IEP.

Additional Components of a Transition IEP

A transition IEP is similar to an IEP, but the main focus is to develop a plan to help the student move from high school to adult life. A transition IEP must also include

- PLAAFP;
- Appropriate measurable postsecondary goals related to training, education, employment, and (if appropriate) independent living skills;
- Measurable annual goals which are reasonably designed to enable the student to meet

- postsecondary goals;
- Courses that the student needs to take while in high school to reach postsecondary goals;
- Documentation of whether the student will work toward a high school diploma, an alternate diploma, or a locally developed certificate such as a certificate of completion;
- The transition services needed to help the student reach the postsecondary goals;
- The names of the individuals or agencies who will provide the transition services;
- Documentation that the CCC reviewed and provided information to the parent on the kinds of adult services available through the state or local community, if appropriate; and
- For a student who participates in alternate assessments aligned to alternative academic achievement standards, a description of benchmarks or short term objectives.

Participation of Vocational Rehabilitation or Other Transition Service Providers

The school must obtain written consent from the parent or adult student before sharing confidential student information with a person from any outside agency that provides transition services, such as vocational rehabilitation, or before inviting an outside agency to attend the CCC meeting.

See the appendix for a visual picture of [Transition IEP flow-chart](#).

Transfer of Rights (511 IAC 7-43-5)

When a student turns 18 years of age, the special education rights given to the parent under federal and state special education laws transfer to the student **unless** a guardian or educational representative has been appointed for the student. The rights transferred to the student at age 18 include:

- consenting to evaluations;
- requesting and attending CCC meetings;
- inviting others to attend a CCC meeting;
- taking action if the student disagrees with the school's proposed transition IEP; and
- requesting mediation or a due process hearing.

At a CCC meeting before the student turns 17 years of age, the school must provide the parent and the student with notice that the rights will transfer to the student at the age of 18 and include in the transition IEP that they were informed. The school must also provide the student and the parent with written notice that the rights have transferred at the time the student turns 18 years of age, unless a guardian or educational representative has been appointed for the student. The school will continue to send all written notices to both the student and the parent, but the student

of legal age has the right to make educational decisions and take the same actions the parent could take before the student turned 18 years of age.

Guardians

A guardian is a person appointed by a judge to make decisions for an incapacitated individual as defined in Indiana Code (IC) 29-3-1-7.5.

Appointing an Educational Representative (511 IAC 7-43-6)

If a guardian has not been appointed, the school may appoint an educational representative in either of the following situations:

- The student makes a written request for a representative to be appointed.
 - The school must appoint the parent to serve as the educational representative. If the parent is not available, the school must appoint a person trained as an educational surrogate parent.
 - The student may ask that the educational representative be removed. The student's request to no longer have an educational representative must be made in writing to the school.
- The student is certified as unable to provide informed consent. Certification takes place after two qualified individuals examine or interview the student. Persons qualified to certify include: a physician with an unlimited license; a licensed nurse practitioner; a licensed clinical psychologist; a licensed psychologist; a licensed school psychologist; or a licensed clinical social worker. The two individuals cannot be related to the student, and only one of the two can be employed by the school. These individuals must certify in writing that the student is not able to give informed consent. This means the student is unable to:
 - Consistently understand the nature, benefit, and consequences of the services or other program options offered by the school,
 - Make rational educational decisions based on the benefits and consequences of one service or program over another, and
 - Communicate his/her understanding in a meaningful way.

The school is not responsible for the costs of appointing an educational representative. An educational representative may be appointed up to 60 calendar days before the student's 18th birthday or any time after if appropriate.

Summary of Performance (511 IAC 7-43-7)

When a student graduates with a high school diploma or alternate diploma, leaves high school with a locally developed certificate, such as a certificate of completion, or exceeds the age of eligibility to receive special education and related services (turns 22 during the school year), the school must provide the student with a written summary of the student's academic achievement and functional performance. The Summary of Performance (SOP) is a written plan that describes what the student has achieved and provides recommendations for helping the student achieve the student's goals for life after high school. Leaving high school with a certificate of completion or

withdrawal from high school as described in IC 20-33-2-28.5 does not eliminate the student's eligibility for special education and related services.

The SOP should include the following basic items, but may include more.

- Basic demographic information about the student (name, address, date of birth, etc.).
- The student's goals for after high school that take into account the student's educational program and the student's interests, preferences, and strengths.
- A summary of the student's academic achievement and functional skill levels.
- Recommendations on what services and supports the student may need to reach the goals for after high school, such as accommodations, modifications, or assistive technology.

SECTION VII: SERVICES TO STUDENTS IN NONPUBLIC SCHOOLS AND SPECIAL EDUCATION AND RELATED SERVICES FOR PARENTALLY-PLACED STUDENTS WITH DISABILITIES IN NONPUBLIC SCHOOLS (511 IAC 7-34)

Public schools have a duty to:

- Locate, identify, and evaluate all students with disabilities who live in and attend any school within its boundaries,
- Consult with nonpublic school representatives and representatives of the parent of nonpublic school students with disabilities, and
- Make available special education and related services to all students with disabilities within its boundaries.
- A student attending a virtual nonpublic school is considered to be attending a nonpublic school within the boundaries of the student's SCOLS (the school corporation where the student lives).

School Corporation of Legal Settlement, Nonpublic Schools, and Local School

- SCOLS is the school corporation where the student resides (the student lives in the SCOLS's boundaries).
- Nonpublic school is school that is not maintained by a school corporation, and includes a private school, homeschool, or parochial school. A nonpublic school is considered an elementary school if it provides instruction for any of grades kindergarten through 8; and a nonpublic school is considered a high school if it provides instruction for any of grades 9 through 12 (see IC 20-18-2-4 & IC 20-18-2-7). A private stand-alone preschool program does not meet the definition of a nonpublic school.
- Local school is the school corporation where the nonpublic school is located (the nonpublic school is within the local school's boundaries).

Child Find Responsibilities (511 IAC 7-34-2)

Child find is the requirement that schools locate, identify, and evaluate all students between the ages of three to 22 years of age who are in need of special education and related services. The parent may request an initial evaluation be conducted by either the public school corporation where the nonpublic school is located or the student's SCOLS.

If the parent chooses to have the evaluation conducted by the SCOLS, the parent must contact the SCOLS and request the initial evaluation. The SCOLS must:

- provide the parent with written notice,
- conduct the evaluation, and
- convene the CCC meeting as required.

If the parent requests an evaluation from the school corporation where the nonpublic school is located, the school must:

- Explain to the parent the concept of a FAPE;
- Advise the parent that the parent has the right to ask the SCOLS for an offer of a FAPE (e.g., an IEP developed by the CCC); and
- Ask the parent if the parent wants the evaluation conducted by the school corporation where the nonpublic school is located or the student's SCOLS.

If the parent chooses to have the evaluation conducted by the school corporation where the nonpublic school is located, that school corporation must follow the procedures for conducting an initial evaluation, including:

- providing the parent with written notice,
- conducting the evaluation, and
- convening the CCC within the appropriate timeline.

Services to Student in Nonpublic Schools (511 IAC 7-34-3)

If a student has been determined eligible as a student with a disability through the evaluation and CCC process, the student is entitled to special education and related services from the public agency where the nonpublic school is located.

A nonpublic school student with a disability receives special education and related services from the local school corporation in accordance with an SP. An SP is similar to an IEP but does not contain all of the components of an IEP and may not have the same amount of services as an IEP. An SP includes:

- The student's present levels of educational performance;
- Measurable annual goals describing what the student can be expected to accomplish within a 12 month period;
- The special education and related services, and supplementary aids and services, that will be provided by the public school, or supports for school personnel that will be provided;
- A statement regarding the student's participation in statewide or district testing and

- any appropriate accommodations the student will use;
- Projected dates of when services will begin and end, as well as the length, frequency, location, and duration of services to be provided; and
- Information on how the student’s progress toward the annual goals will be measured and how the school will inform the parent of the progress.

Students generally receive a different level of service under an SP than students receive under an IEP. The full array of services required to ensure that a student in a public school receives a FAPE under an IEP are not required to be made available as part of an SP for a student parentally-placed in a nonpublic school.

For example, the length and frequency of services to be provided may be less than the student would receive through an IEP; alternatively, the SP may provide consultative services in the nonpublic school whereas if the student enrolled in a public school program, the services may be more direct. If the public school decides to provide the services at a location other than the nonpublic school, it must provide transportation for the student to and from the location. The public school may, but is not required to, provide transportation from the student’s home to the nonpublic school.

A CCC meeting is required to be held each year for students receiving services from the public school under an SP.

The parent of a student who is enrolled in a nonpublic school may request mediation or a due process hearing only if the parent disagrees with the school’s child find activities, the appropriateness of an evaluation or reevaluation, or the determination regarding a student’s eligibility to receive special education and related services. A mediation or due process hearing would be addressed with the public agency. Due process hearing and mediation procedures are not available to resolve disagreements about annual goals, the special education and related services that the public school is offering, or where the services will be provided. If the parent believes a public agency has not complied with the requirements of IDEA or Article 7, the parent may file a complaint with IDOE. A complaint may not be filed against a nonpublic school, but instead, would be addressed with the public agency.

NOTE: When a student with a disability attends a nonpublic school outside of the SCOLS, parental consent must be obtained before the student’s PII is shared between the SCOLS and the local school (school corporation where the nonpublic school is located).

[See Appendix](#) for two flow charts regarding a student being enrolled in a nonpublic school outside the student’s SCOLS and a student being enrolled in a nonpublic school within the student’s SCOLS.

SECTION VIII: CHOICE SCHOLARSHIPS AND PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES BY CHOICE SCHOOLS (511 IAC 7-49)

Indiana's Choice Scholarship Program provides scholarships to eligible Indiana students to offset tuition costs at participating nonpublic schools, known as choice schools. Students must satisfy household income requirements and either have been or be currently enrolled in a participating choice school. Students who receive a choice scholarship are referred to as choice scholarship students.

Special Education Service Provider (511 IAC 7-49-3)

When a student with a disability applies for a choice scholarship, the choice school must inform the parent of the special education and related services it makes available. The choice school is not required to offer any special education and related services. After receiving this information, the parent then selects either the choice school or the school corporation where the choice school is located (local school) as the provider of special education and related services. This service provider selection is valid for the entire school year for which the choice scholarship was awarded, unless the parent revokes consent (see below). The school chosen to be the service provider must be reselected every year that the student receives a choice scholarship, as long as the student remains eligible for special education and related services and chooses to receive services either through the school corporation where the choice school is located or the choice school.

Choice School as Service Provider (511 IAC 7-49-4)

If the choice school is to be the service provider, within 10 instructional days after the choice student enrolls in the choice school, the choice school must arrange a meeting with the parent of the choice scholarship student in order to determine the student's special education and related service needs and develop a CSEP for the student.

CSEP Requirements

The CSEP, similar to an SP, describes the special education and related services that the choice school is required to provide to the choice scholarship student. A CSEP must be in writing and must contain the following:

- Measurable goals;
- Information on how the student's progress will be monitored and how the parent will be informed of this progress;
- Services and accommodations that the choice school will provide to the student, including accommodations needed for the student to participate in statewide testing; and
- The length, frequency, and duration of the special education and related services to be provided.

Parental Rights under a CSEP (511 IAC 7-49-5)

Parental Consent: Unlike IEPs and SPs where written consent is only required for the initial provision of special education and related services, written parental consent is required for each CSEP in order for the choice school to implement the CSEP.

Parental Right to Review the CSEP: A parent may request a meeting at any time to review the CSEP. The choice school must convene a meeting to review the CSEP within a reasonable time of receiving the request. Unlike CCC meetings to review an IEP or SP, Article 7 does not dictate the required members of the meeting to review the CSEP.

Beginning of Year Review: For returning choice students who already have a CSEP and re-elect the choice school as service provider, the prior year's CSEP must be reviewed within 10 instructional days of the start of the new school year by the choice planning team in order to develop a new CSEP.

Revocation of Consent of CSEP Services: A parent may revoke consent to the CSEP services at any time by providing a signed written statement revoking the CSEP services, and this revocation will revoke the entire CSEP. Upon receipt of the written revocation, the choice school must stop implementing the CSEP.

Result of Revocation of Consent of CSEP Services: Upon receipt of the written revocation, the choice school must immediately notify the school corporation within whose boundaries the choice school is located that the student is no longer receiving services under the CSEP and the choice scholarship no longer includes the applicable special education funds. The choice school must immediately provide a copy of the CSEP to the school corporation. No later than 10 instructional days from the date the school corporation receives this written notice, the school corporation must convene a CCC meeting and develop an SP. See [Section VII: Services to Students in Nonpublic Schools and Special Education and Related Services for Parentally Placed Students with Disabilities in Nonpublic Schools 511 IAC 7-34](#).

Parent Requests a Reevaluation (511 IAC 7-49-6)

If the parent of a choice scholarship student requests a reevaluation of the student, the school corporation must conduct the reevaluation, and the choice school must be included in the collaboration and sharing of relevant information related to the reevaluation.

Resolving Disagreements with Choice Schools (511 IAC 7-49-7)

There may be times when the parent and choice school have a disagreement about the provision of special education and related services that cannot be resolved by working together to reach an agreement. Because the choice school is a nonpublic school, the only available dispute resolution option to resolve the disagreement is filing a complaint with IDOE.

Before filing a complaint, the parent must first file a written complaint with the choice school. If

the choice school does not resolve the complaint to the parent's satisfaction, the parent may file a complaint with IDOE. A special education complaint filed with IDOE will be investigated in the same manner as any other special education complaint. Failure of the choice school to timely comply with any corrective action resulting from the complaint investigation may impact the choice school's continued eligibility as a choice school.

Educational Records (511 IAC 7-49-9)

- Within 10 business days of receiving a request from a choice school for educational records of a choice scholarship student with a disability enrolled in the choice school, the school corporation or charter school shall provide the requested records to the choice school.
- Within 10 business days of receiving a request from a school corporation or charter school for educational records of a choice scholarship student with a disability previously enrolled in the choice school, the choice school shall provide the requested records to the school corporation or charter school.
- If the parent of a choice scholarship student with a disability is in breach of a contract that conditions release of student records on the payment of outstanding tuition or other fees, the choice school shall within 10 business days of the request, provide the requesting school corporation with sufficient verbal information to permit the school corporation to make an appropriate placement decision regarding the student.

SECTION IX: CONFIDENTIALITY OF INFORMATION (511 IAC 7-38)

FERPA, IDEA, and Article 7 generally require the school to obtain parental consent before disclosing or releasing personally identifiable information (PII) from the student's educational record. However, there are a number of situations in which the school may release certain information about a student without obtaining written parental consent.

Educational Record

A student's educational record includes any records directly related to a student and maintained by the school or someone acting on the school's behalf. Among other things, an educational record includes test protocols that contain PII regarding the student, the IEP, video clips, audio clips, scanned images, and other electronically recorded or produced items that are maintained by the school. It does not include the records of instructional, supervisory, administrative, or ancillary personnel that: (a) remain in the sole possession of the maker of the record; (b) are used only as a personal memory aid; and (c) are not accessible to or revealed to any other person except a temporary substitute for the maker of the record.

PII about a student means "information by which it is possible to identify a student with reasonable certainty," such as, but not limited to, name of a student, name of the parent or other family members, address of a student, social security or student test number, or a list of personal

characteristics or other information that would make the student's identity easily traceable, including disability designation.

Right to Inspect the Educational Record (511 IAC 7-38-1)

The parent and the student of legal age have the right to inspect and review the educational record. When a parent or student of legal age makes a request to inspect and review the record, the school must provide access to the record:

- Without unnecessary delay;
- Before any meeting regarding an IEP, IAES or manifestation determination;
- Before a resolution session or any due process hearing; and
- In no case more than 45 calendar days of the request.

The right to inspect and review the student's record includes the right to:

- A response from the school to reasonable requests for explanations and interpretations of the educational record;
- Have other arrangements made to inspect and review a requested educational record or to receive copies if the failure to provide those copies would prevent the parent or student of legal age from exercising the right to inspect and review the record;
- Have a representative inspect and review the record; and
- Receive a copy of the record for use in a pending due process hearing.

The school is entitled to charge the parent a fee for copies of anything except IEPs and educational evaluation reports.

Right to Inspect for Divorced, Separated, or Never Married Parents (511 IAC 7-38-1(f))

If the school has not received a copy of a court order terminating or restricting a parent's authority to access a student's educational record, the school must allow non-custodial parents the same rights as custodial parents to inspect and review the record. If the school does not know this individual, the school must verify the requesting individual is the parent.

Amending the Educational Record (511 IAC 7-38-2)

If there is information in the student's educational record that the parent or student of legal age believes is inaccurate, misleading, or otherwise violates the student's rights, the parent or student of legal age may submit a written and dated request to the school that certain information be changed or deleted. The request must specify the information the parent believes is inaccurate, misleading, or violates the student's privacy or other rights.

If the school agrees to change the student's educational record as requested, the school must make the change within 10 business days of the request and notify the parent or student of legal age, in writing, that the change was made, including the date the change was made.

If the school declines to amend the educational record, the school must notify the parent or student of legal age in writing within 10 business days after the request is received. The notice must inform the parent or student of legal age of the right to request a hearing, including information on how to request a hearing and the procedures for the hearing. The hearing to amend the educational record differs from the due process hearing outlined in [Section XII](#), below.

Maintaining the Educational Record (511 IAC 7-38-3)

The school must maintain a student's educational record for at least three years after the student exits from the special education program and in accordance with the school's own policy for retaining student records. In addition, the school cannot destroy a student's record if there is a pending request to inspect and review the record or a pending due process hearing.

SECTION X: PROCEDURAL SAFEGUARDS (511 IAC 7-37)

Article 7 provides several procedural safeguards for the parent and students that are designed to promote parental participation, ensure that students with disabilities are provided a FAPE, and provide a means of resolving disagreements. Procedural safeguards have been referred to as the "rights and responsibilities" of the parent and school.

Among other things, the procedural safeguards affirm the right of the parent:

- To be fully informed;
- To participate in the process;
- To receive prior written notice and provide written consent;
- To have any information that could personally identify the student held in confidence;
- To examine all relevant records; and
- To a timely and impartial resolution of disputes.

To help the parent understand the procedural safeguards, the school must provide the parent with a copy of the NOPS in language understandable to the general public and in the native language or other mode of communication used by the parent unless clearly not feasible to do so.

The school may post the NOPS on its website. However, the school must also provide the parent a written copy of the NOPS, unless the school offers the option of receiving the NOPS by email, and the parent chooses that option. Tip: the school should consider having, in writing, the agreement to receive written notices by email.

The Notice of Procedural Safeguards (511 IAC 7-37-1)

As outlined in 511 IAC 7-37-1(f), the NOPS contains information about :

- The parent's right to written notice before the school can take certain action;
- The situations in which the school must obtain the parent's written consent before taking certain action and the parent's right to revoke an existing consent;
- The parent's right to participate as a member of the CCC;
- The parent's right to request a CCC;
- The parent's right to request a copy of the initial educational evaluation report or a meeting with an individual who can explain the results of the evaluation
- The parent's right to request a reevaluation;
- The parent's right to request an IEE and have it considered by the CCC if the parent disagrees with the school's evaluation;
- The parent's right to inspect and review the student's educational record, to provide consent before information from the record is disclosed, and to challenge or amend information in the record;
- The transfer of rights to the student at 18 years of age;
- The availability of mediation to help resolve disputes;
- The right of a parent or other individual to file a complaint;
- The parent's right to request a due process hearing;
- The differences between a complaint and due process hearing;
- The student's placement during the pendency of a due process hearing;
- Filing for review of a due process hearing final decision and attorney's fees through civil action
- The requirements for a parent's unilateral placement of a student with a disability in a private school at public expense;
- The protections and procedures for students who are subject to certain disciplinary actions, including manifestation determinations and placement in an IAES;
- The protections for those students who have not yet been determined eligible for special education;
- The school's reporting of crimes allegedly committed by a student with a disability; and
- The contact information for the school and other agencies and organizations that can provide assistance to the parent in understanding Article 7.

A copy of the NOPS shall be given to the parent of a student with a disability one time a school year and upon:

- The initial referral or parent request for an evaluation;
- Receipt of a parent's first filed complaint with IDOE in a school year;
- Receipt of a parent's first request for a due process hearing in the school year;

- A school's decision to make a disciplinary change of placement, including removals to an IAES; and
- A parent's request for a copy of the NOPS.

SECTION XI: STUDENT DISCIPLINE (511 IAC 7-44)

While a student with a disability may be disciplined for violating a code of student conduct, 511 IAC 7-44 outlines the discipline procedures as follows:

Removals and Services in general (511 IAC 7-44-1)

IDEA and Article 7 use the term removal to refer to any situation in which a student is removed from the student's placement for any period of time, not pursuant to the student's IEP.

The school is not required to provide services to a student with a disability during any of the first 10 cumulative instructional days of removal in a school year when the student violates a code of student conduct as long as the same services are not provided to a nondisabled student who has been similarly removed.

An in-school suspension does not count as a removal if the student:

- can continue to progress in the general curriculum;
- receives the special education and related services described in the student's IEP; and
- participates with nondisabled students to the same extent as in the student's current placement.

If a student is suspended from transportation, and if transportation is a related service in the student's IEP, the suspension will count as a removal unless the school provides the student with alternate transportation. If transportation is not a related service in the student's IEP, the suspension from the bus does not count as a removal.

If the student is removed for only part of a day, it counts as a whole day of removal. If the school asks the parent to pick the student up early from school due to behavior, it counts as a whole day of removal unless the IEP provides for that accommodation/provision. A short-term removal pursuant to the student's IEP is not a removal.

Meeting to determine if a disciplinary change of placement has occurred: if a student is removed for more than 10 cumulative instructional days in a school year, the public agency must determine if a change of placement has occurred in accordance with 511 IAC 7-44-2.

Disciplinary Change of Placement (511 IAC 7-44-2)

When a student has been removed for more than 10 cumulative instructional days in a school year, the school decides if the series of removals constitutes a disciplinary change of placement.

A removal or series of removals from a student's current educational placement results in a change of placement in the following situations:

- The student's removal is for more than 10 consecutive instructional days.
- The student is subjected to a series of removals that constitute a pattern because:
 - The series of removals adds up to more than 10 instructional days in a school year;
 - The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals; and
 - Of such additional factors as length of each removal, the total time the student has been removed, and how close in time the removals are to one another.

The school must always provide special education and related services to the student during any removals beginning on the 11th cumulative day of the removal during the school year.

If a parent disagrees with a school's decision regarding a student's change of placement, the parent may request mediation, a due process hearing, or both simultaneously.

Removals of More Than 10 Days That Do Not Result in a Change of Placement (511 IAC 7-44-3)

If the removal does not result in a change of placement, the student's removal continues for the number of days decided by the school. The school, with input from at least one of the student's teachers, will determine the services needed to enable the student to continue to participate in the general education curriculum (although in a different setting due to the removal) and to make progress towards the goals in the student's IEP. These services must be provided beginning on the 11th **cumulative** day of the removal in the school year.

Removals of More Than 10 Days That Result in a Change of Placement (511 IAC 7-44-4)

If the removal results in a change of placement the school must immediately notify the parent of the change of placement and provide the parent with a copy of the NOPS. If the school is unable to notify the parent the same day the decision is made, notice must be mailed no later than the following business day.

Within 10 instructional days of the date of the change of placement for disciplinary reasons, the CCC must meet to decide if the student's behavior is a manifestation of the student's disability. Article 7 calls this a manifestation determination. If the CCC determines the student's behavior is a manifestation of the student's disability, the CCC must take further action (see below).

Manifestation Determination (511 IAC 7-44-5)

When a student's removal for disciplinary reasons is a change of placement, the CCC must determine if the conduct in question was:

- caused by the student's disability, or had a direct and substantial relationship to the student's disability, or
- the direct result of the school's failure to implement the student's IEP.

Conduct is a Manifestation of the Student's Disability

If the student's conduct was a manifestation of the student's disability, the CCC must:

- Conduct an FBA (if the school has not already done so) and develop and implement a BIP, or if a BIP has already been developed, review and revise the BIP, as necessary, to address the student's behavior.

Unless the principal or principal's designee has removed the student to an IAES based on certain circumstances (see IAES below), the student should be returned to the placement from which the student was removed. Alternatively, the parent and school can agree to a change of placement as part of a modification of the student's BIP. This decision to change the student's placement as part of a modification of the student's BIP must be agreed upon by both the parent and school. If the CCC decides that the student's behavior was the direct result of the school's failure to implement the IEP, the school must take immediate steps to fix the problem.

Conduct is Not a Manifestation of the Student's Disability

If the CCC decides that the behavior is not a manifestation of the student's disability, the student may be removed or otherwise disciplined in accordance with the school's disciplinary policies for nondisabled students. The school must provide appropriate services to the student while the student is removed. The CCC (not the expulsion officer) decides what appropriate services the student needs and where the student will be placed during the removal. The services designed by the CCC must allow the student to:

- Continue to participate in the general education curriculum, even though the student is in a different setting;
- Progress toward meeting the goals in the student's IEP; and
- Receive, if appropriate, an FBA, and behavioral intervention services designed to address the student's behavior so that it does not happen again.

Disagreement with Manifestation Determination (511 IAC 7-44-5(h))

If the parent disagrees with the manifestation determination the parent may request mediation, a due process hearing, or both. If the parent requests a due process hearing, the hearing will be expedited and held quicker than a normal due process hearing.

Interim Alternative Educational Setting (511 IAC 7-44-6)

The school may place the student in an IAES for up to 45 instructional days without regard to whether the behavior is determined to be a manifestation of the student's disability, if the student:

- Carries or possess a weapon at school, on school premises, or at a school function;
- Possess, uses, or sells illegal drugs or controlled substances at school, on school premises, or at a school function; or
- Has inflicted serious bodily injury on another person at school, on school premises, or at a school function;
 - Serious bodily injury means bodily injury which involves a substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

The school must notify the parent and provide the parent with NOPS. A manifestation determination must also be conducted by the student's CCC. The student will remain in the IAES whether or not the conduct is a manifestation of the student's disability. The student's CCC determines the IAES and appropriate services needed to enable the student to:

- Continue to participate in the general education curriculum, although in another setting;
- Progress toward meeting the goals in the student's IEP; and
- Receive, as appropriate, an FBA and behavioral intervention services and modifications that are designed to address the behavior violation so it does not recur.

Disagreement of IAES Placement (511 IAC 7-44-6(e))

If the parent disagrees with the IAES placement the parent may request mediation, a due process hearing, or both. If the parent requests a due process hearing, the hearing will be expedited. The hearing officer may return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of Article 7.

Substantial Likelihood of Injury to Student or Others (511 IAC 7-44-7)

If the school believes that returning the student to the placement prior to the removal is substantially likely to result in injury to the student or others, the school may request an expedited due process hearing to determine an appropriate placement for the student.

The school can also seek injunctive relief to remove a student with a disability from school or change a student's current educational placement, if the school believes that maintaining the students in the current educational placement is substantially likely to result in injury to the student or others.

Placement during due process hearings or appeals of disciplinary action (511 IAC 7-44-8)

If a CCC changes a student's placement for violating a code of student conduct, that new setting becomes the student's stay-put placement. The child remains in the alternate setting pending the decision of the hearing officer, the end of the disciplinary placement term, or an agreement by all parties on the appropriate placement, whichever occurs first.

Protections for Students not yet Eligible (511 IAC 7-44-9)

A student who has not been determined eligible for special education and related services and engaged in behavior that violated any rule or code of conduct of the school may assert the protections provided by Article 7 if the school had knowledge that the student was a student with a disability.

A school is deemed to have knowledge that a student is a student with a disability if any of the following has occurred:

- The parent expressed concern in writing to licensed personnel, or a teacher of the student, that the student is in need of special education and related services;
- The parent or school requested an initial evaluation of the student; or
- The student's teacher or other school staff has expressed a specific concern about a pattern of behavior demonstrated by the student directly to a supervisor.

A school is not deemed to have knowledge that a student is a student with a disability if any of the following has occurred:

- The parent did not allow an evaluation of the student;
- The parent refused services under Article 7 or IDEA;
- The school conducted an educational evaluation, determined the student was not a student with a disability, and provided notice to the parent; or
- The parent revoked consent for special education and related services.

If the school does not have knowledge prior to taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as applied to students without disabilities.

If a parent requests an initial educational evaluation during the time the student is suspended, expelled, or placed in an IAES the evaluation must be conducted in an expedited manner. An expedited evaluation means the school shall conduct the evaluation and convene the CCC within 20 instructional days from the date of the parent's written consent for the evaluation, and the school will provide a copy of the evaluation to the parent at the CCC meeting.

SECTION XII: RESOLVING DISAGREEMENTS: COMPLAINTS, MEDIATION, AND DUE PROCESS HEARINGS (511 IAC 7-45)

There may be times when the parent and the public agency do not agree about the provision of special education or related services. Sometimes the disagreement can be resolved by a meeting between the parent and the public agency or by convening a CCC meeting. By working together to reach an agreement, the parent and the public agency are able to continue a positive relationship and often find a solution to the disagreement in less time than using a more formal dispute resolution process.

Tips when preparing to file a complaint, mediation, or a due process hearing:

- Be sure to identify the specific disagreement.
- For more information, available resources can be found in the [Appendix](#).

For more information on informal and formal dispute resolution option visit the dispute resolution website: <https://www.in.gov/doe/students/special-education/dispute-resolution/>

When the parent and the public agency are unable to find a resolution for a disagreement involving special education and related services, the parent may:

- File a complaint,
- Request and participate in mediation, or
- Request a due process hearing.

The public agency may also request mediation or a due process hearing.

What is a public agency?

Public Agency includes the state educational agency (SEA), LEAs, Education Service Agencies, public charter schools that are not otherwise included as LEAs or SEAs and are not a school of an LEA or Education Service Agency, and any other political subdivisions of the State that are responsible for providing special education or related services.

Education service agency. See 34 C.F.R. § 300.12.

Complaints (511 IAC 7-45-1)

A complaint is a claim that a public agency has violated federal special education rules or Article 7 or has failed to comply with an order issued by a hearing officer. A complaint requests IDOE to investigate the alleged violation and may concern one student or a group of students. There are a number of reasons a parent may file a written complaint. A few examples include:

- The public agency changed the student's placement without providing the parent with prior written notice.
- The public agency has failed to conduct an evaluation and convene the CCC within the required timelines.
- The parent believes the public agency is not providing the services included in the student's IEP.

The alleged violation in the complaint must have occurred within one year of the date the complaint is filed.

Instructions for Filing the Complaint

A complaint may be filed by the parent or any other individual.

All complaints must:

- Be in writing and signed by the complainant;
- Include a statement that the public agency has not followed one or more requirements of Article 7 or IDEA (federal special education laws);
- Include the facts about the alleged violation;
- Include complainant's contact information; and
- Be submitted to IDOE and the public agency.

If the complaint involves a specific student, the complaint must also include:

- The student's name and address or in the case of a homeless student, the name and available contact information for the student;
- The name of the school the student attends;
- A description of the alleged violation, including facts related to it; and
- A proposed resolution, if known and available at the time the complaint is filed.

The fully completed and signed complaint must be sent to IDOE's Office of Special Education and the public agency serving the student.

Instructions for filing a complaint can be found at:

<https://www.in.gov/doe/students/special-education/special-education-complaint-511-iac-7-45-1/>.

After Filing the Complaint

Once IDOE's Office of Special Education receives the complaint, it will be assigned to a complaint investigator. The complaint investigator will then contact the public agency and the complainant. The public agency may do any of the following within 10 calendar days from the date IDOE receives the complaint:

- Provide a written response to IDOE and the complainant;
- Resolve the complaint with a written agreement signed by the public agency and the complainant, submitted to IDOE, and specify whether any issues remain that require investigation.
- Agree with the complainant to engage in mediation (the mediation must be completed within 20 calendar days from the date IDOE receives the complaint);
- Notify IDOE that it should begin investigating the complaint because the public agency will not be taking any of the other actions.

Note: The complainant's participation in resolving the complaint with the public agency is voluntary.

A complaint investigator will begin formal investigation of the complaint if:

- The public agency does not respond;
- The public agency notifies IDOE to begin the investigation early; or
- The public agency and the parent are not able to reach an agreement on the issue(s).

After completing the investigation, the complaint investigator will issue a written report within 40 calendar days from the date IDOE received the complaint. The investigator will forward a copy of the report to the complainant and the public agency.

If the complaint investigator finds a violation, corrective action may be required. If corrective action is required, the report will include a timeline for the public agency to complete the corrective action. The investigator will monitor the public agency's progress and compliance with the corrective action.

Reconsideration

The complainant or public agency may request that any part of the investigator's report be reconsidered by the Director of Special Education for IDOE. The request for reconsideration must be made in writing and must specifically identify the findings of fact, conclusions, or corrective action to be reconsidered. The request for reconsideration must be submitted to IDOE's Office of Special Education within 10 calendar days of receiving the complaint investigator's report.

The Director of Special Education for IDOE will review the complaint file and decide if any changes should be made to the original report. If changes are made to the original report, IDOE will issue a revised complaint investigation report. If there are no changes, IDOE will send a letter to all parties stating that no changes are being made. This must be done within 60 calendar days of the date IDOE received the written complaint.

Mediation (511 IAC 7-45-2)

Mediation is a voluntary and confidential process that allows the parent and public agency to attempt to resolve their issues with the help of a trained and impartial mediator. The goal of mediation is to find a solution that meets the educational needs of the student. The mediator helps the parties communicate with each other, so that everyone has an opportunity to express concerns and offer solutions. The mediator will focus on resolving disagreements and working toward a solution that satisfies all participants.

The mediator does not make decisions. The parent and public agency must both agree to any decisions made.

Mediation may be used to resolve:

- A student's identification and eligibility for services;
- The appropriateness of an educational evaluation or the proposed or current special education services or placement;

- Any other dispute involving the provision of a FAPE to the student;
- Reimbursement for services obtained by the parent; or
- Any issues involved in a current complaint or due process hearing.

Requesting Mediation

A request for mediation may be made by the parent or public agency, but the mediation process cannot begin unless both parties agree in writing to participate in the process. The completed mediation request, containing both the parent and the public agency's signatures, must be sent to IDOE's Office of Special Education.

Instructions for requesting mediation can be found at:

<https://www.in.gov/doe/students/special-education/special-education-mediation-511-iac-7-45-2/>.

The Role of the Mediator

A mediator is an individual who is impartial and knowledgeable about the laws and regulations relating to special education and related services. Special education mediators must be trained in mediation techniques and listed on the Supreme Court's registry of mediators. An individual serving as a mediator cannot be an employee of IDOE or the public agency involved in the education or care of the student.

IDOE assigns mediators on a general rotation basis. This means that when IDOE receives a request for mediation, IDOE contacts the mediator at the top of the rotation list to check their availability to serve as a mediator. If that person is not available, IDOE will contact the next person on the list.

The mediator:

- Works with the parent and public agency to schedule a convenient date, time, and location for the mediation;
- Helps the parent and the public agency identify and talk about the issues causing the disagreement;
- Gives everyone the opportunity to present their point of view; and
- Helps the parent and public agency find a solution to the disagreement that is acceptable to both sides.

A parent can file a request for mediation and a complaint request at the same time. When the parent files for mediation, there is an option to select "toll." Tolling means the complaint process will be paused on the day both parties agree to toll the complaint and the complaint process would resume if the parties do not reach a full resolution in mediation.

KEY POINTS ABOUT MEDIATION

- Mediation may be requested by the parent or the public agency, is voluntary, and both the parent and the public agency must agree to mediate.
- There is no cost to the parent or the public agency.
- Mediation sessions are scheduled in a timely manner, in a location convenient to both parties.
- All discussions that occur in a mediation session are confidential and cannot be used as evidence in a due process hearing or court proceeding.
- Mediation may be used alone to resolve the disagreement.
- Mediation may also be requested before or at the same time as a due process hearing request or a complaint.
- If the disagreement is resolved through mediation, the parties must put the agreement in writing.
- The written mediation agreement:
 - Must be signed by both the parent and the public agency's representative,
 - Must describe the parties' agreement,
 - Must state that all discussions that occurred during the mediation process will remain confidential and may not be used as evidence in a due process hearing or other civil court proceeding, and
 - Is a legally binding agreement that may be enforced through the state complaint process or in federal or state court.

Due Process Hearing (511 IAC 7-45-3)

A due process hearing is a more formal process than other dispute resolution options mentioned above. It is a hearing held before a hearing officer. The parent and the public agency have the opportunity to testify and present evidence. At the conclusion of the hearing, the hearing officer considers all of the information and issues a written decision.

A due process hearing can be used to settle a disagreement about:

- The student's identification or eligibility as a student with a disability;
- The appropriateness of the educational evaluation, level of services, or placement;
- Reimbursement for services obtained by the parent; or
- Anything else involving the provision of a FAPE.

Requesting a Due Process Hearing

Only the parent, the public agency, or IDOE may request a due process hearing.

In general, a due process hearing must be requested within two years of the date that the parent or public agency knew or should have known about the issue or action that caused the disagreement.

A request for a due process hearing must be in writing, signed, and include:

- The student's name and address or in the case of a homeless student, available contact information for the student;
- The name of the school the child attends;
- The reason for the request for a hearing including a description of the problem and any facts related to the it; and
- A proposed resolution, if known and available at the time.

A parent's or a public agency's request for a due process hearing must be sent to the Secretary of Education at IDOE and the other party. The Secretary of Education will appoint a hearing officer and notify the parties of the appointment. The public agency must provide the parent with information on free or low-cost legal or other relevant services available in the area.

If a parent requests a hearing, the public agency has a 30-calendar day "resolution period" to try to resolve the disagreement.

Instructions for requesting a due process hearing can be found at:

<https://www.in.gov/doe/students/special-education/dispute-resolution/special-education-due-process-hearing-511-iac-7-45-3-through-7-45-7/>

A parent can file a request for due process hearing and a complaint request at the same time. When there is a hearing and a complaint involving the same issues, IDOE will set aside any part of the complaint that is being addressed in the due process hearing until the conclusion of the hearing.

Written Response for a Due Process Hearing (511 IAC 7-45-5)

Within 10 calendar days of receiving the request for a due process hearing, the party receiving the request must send the other party a written response specifically addressing the issues in the due process hearing request. If the public agency has not already sent the parent a written notice about the action it wants to take or refuses to take, including what the public agency used as the basis for the decision, it must also provide the parent with this written notice. The response must also include other options considered by the CCC and the reasons those were rejected.

If the school received the request, they must also provide the parent and hearing officer with a copy of every IEP developed and report of every educational evaluation conducted by the school during the two years prior to the date of the due process hearing request. If the school did not conduct an evaluation in the two-year period, it shall provide a copy of the report from the most recent educational evaluation conducted regardless of the time period.

Notice of Insufficiency

If the party receiving the hearing request believes the request does not contain all the requirements of Article 7, the party must notify the hearing officer that the request does not meet the requirements. This “notice of insufficiency” must be filed within 15 calendar days of receipt of the due process request. The hearing officer has five calendar days after receiving the notice of insufficiency to decide if the request meets all of the requirements. If the hearing officer determines the request is not sufficient, the hearing officer must identify how the request is insufficient, provide a date by which the filing party can amend the notice if appropriate, and send written notice to the parties. For reasons other than a determination of insufficiency, a party may amend the hearing request only if the other party consents in writing and is given the opportunity to resolve the due process hearing request issues through a resolution meeting; OR the party submits a motion identifying reasons for the proposed amendment and the hearing officer grants permission. If the hearing request is determined insufficient and is not amended, the request may be dismissed.

Resolution process (511 IAC 7-45-6)

A resolution meeting is an opportunity for the parent and the public agency to talk about the issues in the parent’s due process hearing request to see if they can resolve them without a due process hearing. The parent and the public agency must participate in a resolution meeting, unless:

- The public agency is the requesting party;
- Both parties agree to waive the meeting; or
- Both parties agree to state approved mediation as outlined in 511 IAC 7-45-2 instead of the resolution meeting.

The public agency must conduct the meeting within 15 calendar days of the date it received the parent’s request for a due process hearing. The resolution meeting includes the parent, a representative of the public agency who has decision-making authority, and any members of the CCC who may have information that can help resolve the issues. The parent may bring an attorney or an advocate to the resolution meeting. The public agency may not be represented by an attorney at the resolution meeting unless the parent is accompanied by an attorney.

If the parent does not participate in the resolution meeting, the public agency may ask the hearing officer to dismiss the parent’s due process hearing request.

Agreement Reached

If an agreement is reached during the resolution meeting, the agreement must be put in writing and signed by the parent and the public agency's representative. Once the agreement is signed, the parent and the public agency have three business days to change their minds and cancel the agreement. If either one wants to cancel the agreement, it must be done in writing.

A written, signed resolution agreement may be enforceable through any state court of competent jurisdiction, a district court of the United States and the complaint process.

No Agreement Reached

Generally speaking, if the parties are unable to reach an agreement during the 30-day resolution period, the 45-calendar day period in which to conduct the hearing and issue a written decision begins.

If the public agency requests a hearing, the hearing must be conducted and a final written decision reached within 45 calendar days.

The Hearing Process

The hearing officer will issue the preliminary scheduling order shortly after receiving the hearing assignment. The preliminary scheduling order identifies when key events in the hearing process will occur.

Prehearing conferences: The hearing officer will hold an initial prehearing conference, with both parties participating, to identify the issues for the due process hearing, explore resolution possibilities, rule on any pending motions, advise parties of their rights, and discuss the due process hearing, including when and where the hearing will take place. The prehearing conference may occur in person or by other means such as by phone. If the hearing is requested by the parent, the initial prehearing conference will be conducted as soon as practical after the time for the resolution meeting but prior to the expiration of the resolution period. If the hearing is requested by the public agency, the initial hearing will be conducted no later than 15 days after the parent receives the hearing request.

The hearing: The hearing will be held at a time and place that is convenient for the parent and the public agency. During the due process hearing, each side can have witnesses testify (answer questions) and can provide documents in support of their position. It is similar to what happens in court, but it is not as formal. The hearing officer serves as the "judge." A court reporter will record the hearing and provide a transcript of the hearing to the parties upon request.

Expedited Due Process Hearing (511 IAC 7-45-10)

There are times when a due process hearing must be expedited. This means that the hearing and the activities leading up to the hearing happen in an expedited manner, and the hearing officer

cannot grant any extensions of time.

There are three situations when an expedited hearing may occur:

1. If the parent disagrees with the school's determination that the student's behavior was not a manifestation of the student's disability;
2. If the parent disagrees with the school's decision regarding the student's disciplinary change of placement; or
3. If the school believes that it is dangerous for the student to return to the current placement after the expiration of the student's placement in an interim alternative education setting or believes there is a substantial likelihood of the student causing harm to self or others.

Judicial Review of Hearing Officer Decision (511 IAC 7-45-9)

Any party disagreeing with the decision of the hearing officer may file a petition for judicial review with a civil court with jurisdiction. Under IC 4-21.5-5-5, a petition for review by a state or federal civil court must be filed within 30 calendar days after the date of the hearing officer's written decision is received by the party.

SECTION XIII: INDIANA EDUCATION SCHOLARSHIP ACCOUNT EDUCATION SERVICE PLAN (511 IAC 7-50)

School Corporation of Legal Settlement, Nonpublic Schools, and Local School

- SCOLS is the school corporation where the student resides (the student lives in the SCOLS's boundaries).
- Nonpublic school is school that is not maintained by a school corporation, and includes a private school, homeschool, or parochial school. A nonpublic school is considered an elementary school if it provides instruction for any of grades kindergarten through 8; and a nonpublic school is considered a high school if it provides instruction for any of grades 9 through 12 (see IC 20-18-2-4 & IC 20-18-2-7). A private stand-alone preschool program does not meet the definition of a nonpublic school.
- Local school is the school corporation where the nonpublic school is located (the nonpublic school is within the local school's boundaries).

Introduction to the Education Scholarship Account

Eligibility for the ESA program is found in IC 20-51.4. If the student meets the qualifications outlined in IC 20-51.4 and has an ESA, the parent may choose to have special education and related services provided by the local school under an SP, or the parent may choose to have

special education state funds added to the ESA so that the parent may choose which special education and related services are to be provided and the service providers to provide those services pursuant to an education scholarship account service plan (ESA-SP).

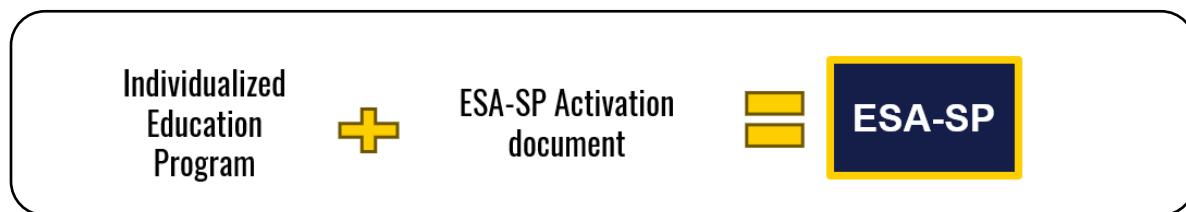
This rule applies to parentally-placed nonpublic school ESA students with disabilities pursuant to the IDEA and Article 7 and provides procedures for developing an ESA-SP.

Education Scholarship Account Education Service Plan (511 IAC 7-50-3)

An ESA-SP is a written document (the IEP) offered by the student's SCOLS, rejected by the parent, and serves as the basis for the special education and related services for which scholarship money in the student's ESA may be used. The ESA-SP consists of the rejected IEP and the ESA-SP Activation document. The ESA-SP document is provided by the SCOLS during the ESA-SP development process. The ESA-SP must contain the following statements:

- Notwithstanding any other provision of the ESA-SP, the parent or emancipated eligible student is responsible for arranging for the provision of any of the special education and related services specified in the ESA-SP chosen for the student;
- Notwithstanding any other provision of the ESA-SP, neither the SCOLS that convene the CCC to develop the ESA-SP or any other public agency is required to provide any of the services identified in the plan unless the parent or emancipated eligible student contracts with the SCOLS or public agency to provide specific services;
- The parent or emancipated eligible student is responsible to arrange for payment for any contracted services; and
- The ESA-SP is valid for a period of time not to exceed three years, or the date the student's reevaluation is due, whichever comes first.

The above-referenced required statements are included in the ESA-SP Activation document. The ESA-SP remains valid for up to three years, or until the three-year revaluation, whichever occurs first, unless revised by the student's CCC.



Special Education Service Provider

Parent Chooses the Local School as Service Provider: If the parent of an ESA student elects to have the special education and related services provided by the local school under an SP, the SP must be developed by the local school. The CCC must convene to develop the SP. The SP is implemented by the local school, and the CCC must convene at least yearly in accordance with 511 IAC 7-34.

Parent Chooses to Contract the ESA-SP Services: If the parent of an ESA student elects to be responsible for arranging for special education and related services pursuant to an ESA-SP, the

parent must request the student's SCOLS to convene a CCC to develop an IEP. The SCOLS shall convene the CCC upon parent's request. To move forward with the development of the ESA-SP, the parent must decline the IEP offer. The SCOLS will present the ESA-SP Activation document to the parent for review and signature. The ESA-SP consists of the rejected IEP and the ESA-SP Activation document and is valid for a period of time not to exceed three years or the date the student's reevaluation is due, whichever occurs first. The CCC is not required to convene annually. A parent may request a CCC before the ESA-SP expires. The parent is responsible for implementation of the ESA-SP.

The parent would then independently arrange for any of the special education and related services specified in the ESA-SP. Under IC 20-51.4, the parent may use funds in the account to pay for services identified in an IEP, SP, or CSEP. However, after the initial determination of eligibility for the ESA, public schools and choice schools will not continue to develop IEPs, SPs, and CSEPs for students who are not receiving services under these plans.

Reevaluation (511 IAC 7-50-4)

The ESA student must be reevaluated at least once every three years in accordance with 511 IAC 7-40-8 to determine continued eligibility. This means the public school must reevaluate the student unless the school and parent agree that a reevaluation is unnecessary. While a parent maintains the right to request an educational reevaluation from the local school or the SCOLS, the ESA-SP is developed by the SCOLS.

Consent: Consent of the parent is required before the student can be reevaluated. If it has been determined that a reevaluation is necessary and consent is not provided, then the SCOLS cannot develop a new IEP for the ESA student. This means the SCOLS cannot develop an ESA-SP.

Note: This is not a determination of eligibility for special education and related services under IDEA/Article 7.

Progress Monitoring Data: The parent seeking an ESA-SP must provide the SCOLS data on the student's progress toward goals, any assessment data, and any other information from participating service providers as part of the reevaluation process.

The SCOLS must convene a CCC to consider the results of the reevaluation, including the data and information provided by the parent or the emancipated student. The parent may invite participating providers to attend the CCC meeting to discuss the student's present levels of educational performance as the CCC develops measurable goals, identifies special education and related services, and testing accommodations required for the student.

Termination of ESA-SP (511 IAC 7-50-5)

An ESA student's enrollment in a public school terminates the student's ESA. The parent and public school must notify the Treasurer of State of the enrollment. Upon enrollment in a public school, the public school, in consultation with the parent, must immediately provide the student

with services comparable to those described in the student's ESA-SP until the public school develops, adopts, and implements an IEP that meets the requirements of 511 IAC 7-42. The CCC must be convened within 10 instructional days of enrollment of a student who had been receiving services through an ESA-SP.

APPENDIX

Parent Resources

Indiana Department of Education

Office of Special Education

Indiana Government Center North, 9th Fl.,

100 N. Senate Avenue,

Indianapolis IN 46204

in.gov/doe/students/special-education/

Telephone: 317-232-0570

Fax: 317-232-0589

Toll-free: 1-877-851-4106

Indiana Family to Family

14074 Trade Center Drive, Suite 251

Fishers, IN 46038

[Indiana Family to Family](http://IndianaFamilytoFamily.org)

844-F2F-INFO (844-323-4636)

Toll-free: 1-800-964-4746

The Arc of Indiana

143 W. Market Street Suite 200

Indianapolis, IN 46204

www.arcind.org

Telephone: 317-977-2375

Fax: 317-977-2385

Toll-free: 1-800-382-9100

Joseph Maley Foundation

7128 Lakeview Prkwy W. Dr.

Indianapolis, IN 46268

josephmaley.org/

Telephone: 317-432-6657

Office of Administrative Law Proceedings

100 N. Senate Ave., Room N802

Indianapolis, IN 46204

In.gov/olap

Telephone: 317-234-6689

Fax: 317-232-8142

Ability Allies

5954 North College Avenue

Indianapolis, IN 46220

www.abilityallies.org

Telephone: 317-426-7733

Indiana Disability Rights

4755 Kingsway Dr, Suite 110

Indianapolis, IN 46205

in.gov/idr

Telephone: 317-722-5555

Fax: 317-722-5564

Toll-free: 1-800-622-4845 (Voice)

Toll-free: 1-800-838-1131 (TTY)

IN*SOURCE

PO Box 6185

South Bend, IN 46660

insource.org

Telephone: 574-234-7101

CADRE

576 Olive St, Suite 307

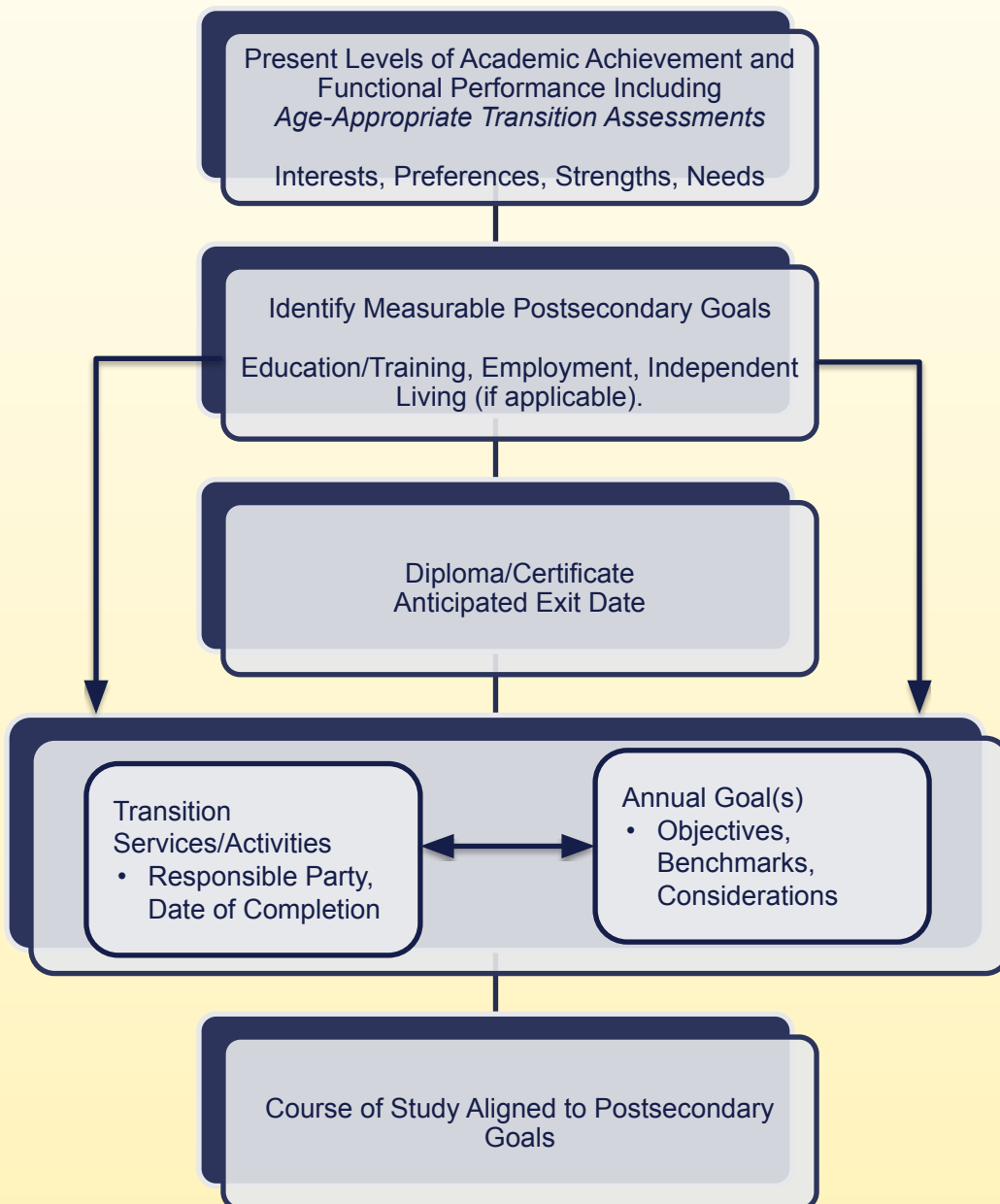
Eugene, OR 97401

<https://cadreworks.org/>

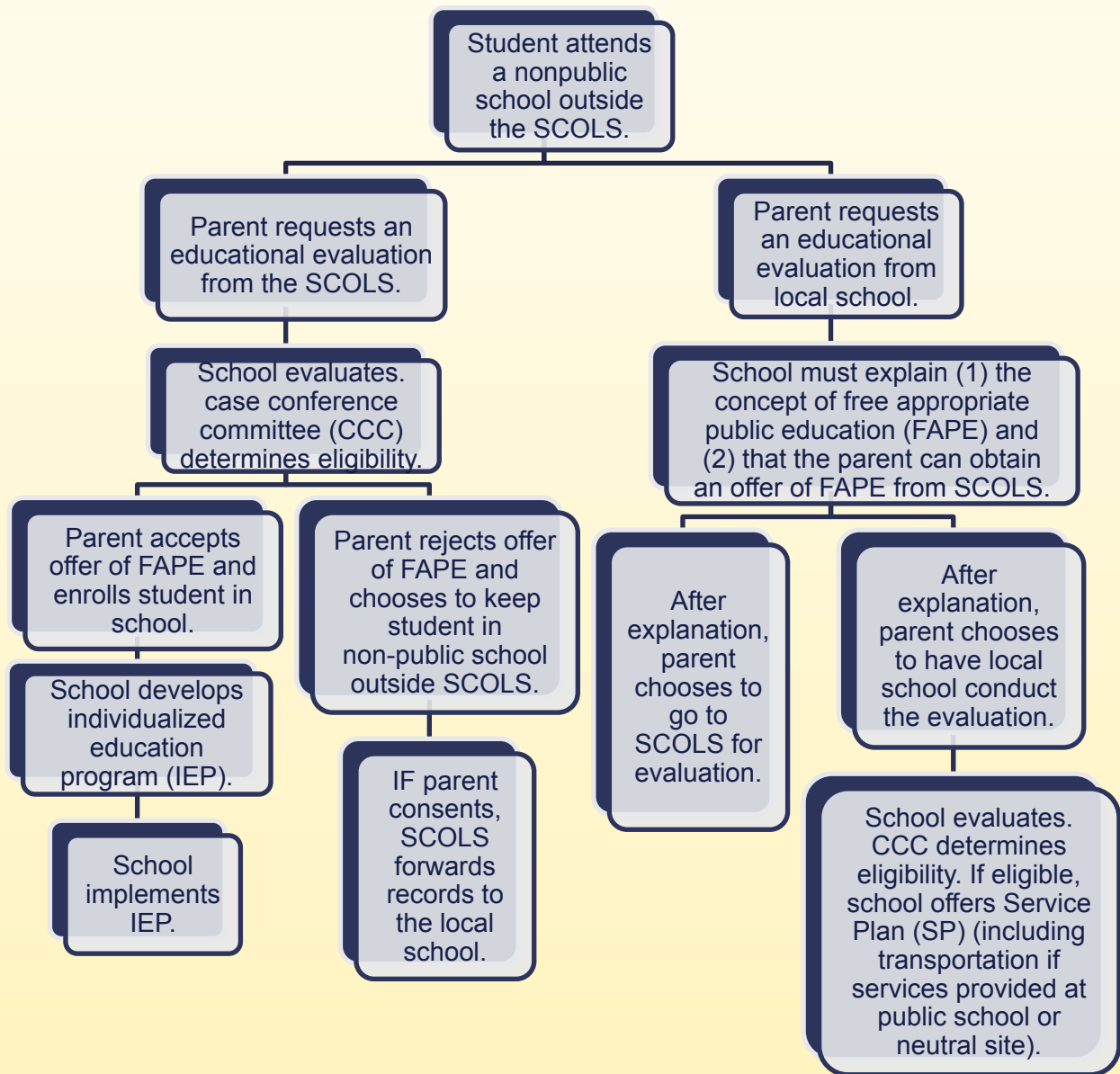
Telephone: (541) 359-4210

FLOW CHART – TRANSITION IEP

HOW THE TRANSITION IEP PROCESS SHOULD WORK



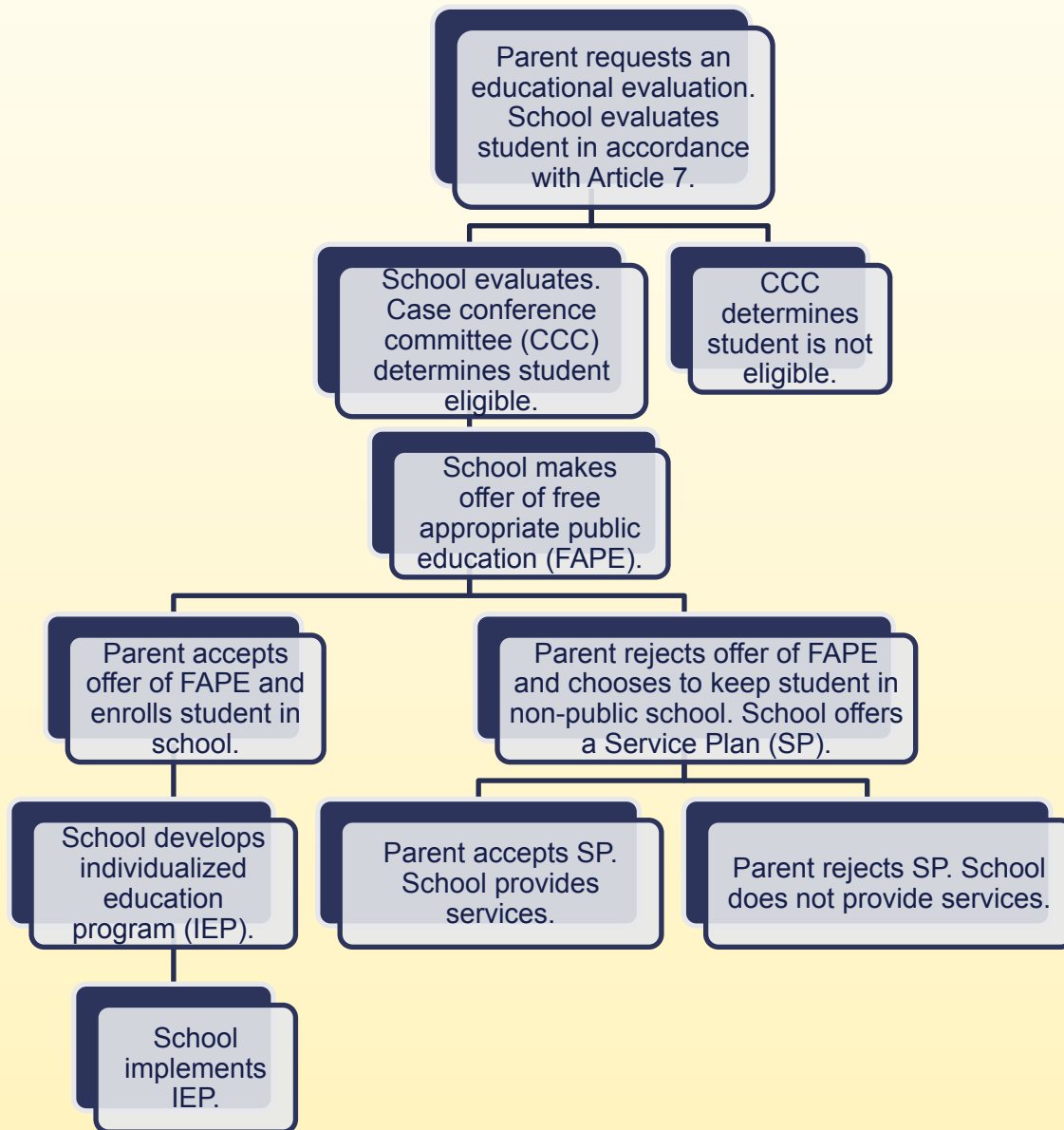
FLOW CHART – STUDENT ENROLLED IN NONPUBLIC SCHOOL OUTSIDE THE STUDENT’S SCHOOL CORPORATION OF LEGAL SETTLEMENT (SCOLS)



CHOICE SCHOLARSHIP: Students may receive services pursuant to an SP or a CSEP. The nonpublic CHOICE school develops and implements the CSEP. See Rule 49 (Section VIII in this document) for more information.

EDUCATION SCHOLARSHIP ACCOUNT (ESA): Students may receive services pursuant to an SP or an ESA-SP. The SCOLS works with the parent to develop an ESA-SP. The parent is responsible for implementing the ESA-SP. See Rule 50 (Section XIII in this document) for more information.

FLOW CHART – STUDENT ENROLLED IN NONPUBLIC SCHOOL WITHIN THE STUDENT’S SCHOOL CORPORATION OF LEGAL SETTLEMENT (SCOLS)



CHOICE SCHOLARSHIP: Students may receive services pursuant to an SP or a Choice special education plan (CSEP). The nonpublic CHOICE school develops and implements the CSEP. See Rule 49 (Section VIII in this document) for more information.

EDUCATION SCHOLARSHIP ACCOUNT (ESA): Students may receive services pursuant to an SP or an ESA-SP. The SCOLS works with the parent to develop an ESA-SP. The parent is responsible for implementing the ESA-SP. See Rule 50 (Section XIII in this document) for more information.