

**Proposed Rule**  
LSA Document #22-14

**DIGEST**

Amends 511 IAC 7-36-2, and 511 IAC 7-36-3 and adds 511 IAC 7-36-3.5, concerning special education personnel, teachers, and teachers in charter schools. Amends 511 IAC 10.1-3-7, concerning requirements set forth in the Individuals with Disabilities Education Act (“IDEA”) as they relate to transition to teaching alternative programs for special education licensure. Amends 511 IAC 16-4-1 and adds 511 IAC 16-4-8, concerning emergency permits.

**SECTION 1. 511 IAC 7-36-2 IS AMENDED TO READ AS FOLLOWS:**

**511 IAC 7-36-2 Special education program personnel**

Authority: IC 20-19-2-8; IC 20-19-2-16

Affected: IC 20-19-2; IC 20-35

Sec. 2. (a) All personnel employed or contracted by a public agency to provide special education or related services must be appropriately licensed or certified and must have the content knowledge and skills necessary to provide the services for which the individual is employed or contracted in accordance with standards established by the department of education’s office of educator licensing or other applicable licensing and certification bodies. ~~The person designated as a student’s teacher of record shall:~~

~~(1) for kindergarten through grade 12, be appropriately licensed in the area of the student’s disability or, where appropriate state licensure is not available, appropriately trained; and~~

~~(2) for early childhood, hold an appropriate license to teach early childhood special education.~~

(b) Special education teachers who teach in public elementary and secondary schools must meet the requirements of subsection (a).

(c) Related services personnel who deliver services in their discipline:

(1) must meet the requirements of subsection (a); and

(2) may not have certification or licensure requirements waived on:

(A) an emergency;

(B) a temporary; or

(C) a provisional;

basis.

(d) Personnel working with deaf or hard of hearing students who provide sign language transliteration and interpreting services must:

(1) meet the requirements of subsections (a) and (c); and

(2) be certified to interpret in an educational setting.

(e) Public agencies may allow paraprofessionals and assistants who are appropriately trained to work under the direction and supervision of:

- (1) licensed teachers; or
- (2) related services personnel;

to assist students in areas that relate to personal, social, and educational needs.

(f) The public agency shall do the following:

(1) Provide preservice and in-service training to paraprofessionals in the following areas:

- (A) The role of the paraprofessional related to the role of the professional person providing supervision and direction.

- (B) The specific skills and content knowledge necessary to carry out the assigned responsibilities.

- (C) Information on the following:

- (i) The specific special needs and characteristics of the students with whom the paraprofessional will be working.

- (ii) Special education procedures, including the confidentiality of personally identifiable information.

(2) Document, in writing, the training provided to paraprofessionals.

(g) In addition to the requirements listed in subsections (e) and (f), paraprofessionals who provide instructional support in a program supported by funds from Title I, Part A of the Elementary and Secondary Education Act must have the following:

(1) A high school diploma as defined in 511 IAC 6-7.1-1(e) or its recognized equivalent.

(2) Paraprofessionals hired after January 8, 2002, must have achieved one (1) of the following:

- (A) Completed two (2) years of study at an institution of higher education, as defined in 511 IAC 7-32-52.

- (B) Obtained an associate's or higher degree.

- (C) Met a rigorous standard of quality and be able to demonstrate, through a formal state academic assessment, knowledge of and the ability to assist in instructing reading, writing, and mathematics (or, as appropriate, reading readiness, writing readiness, and mathematics readiness).

(h) A paraprofessional under subsection (g) does not have to meet the requirement in subsection (g)(2) if the paraprofessional is a person who:

(1) is proficient in English and a language other than English and acts solely as a translator to enhance the participation of limited English proficient students; or

(2) only conducts parental activities, such as a home school liaison.

(i) A paraprofessional under subsection (g) does not have to meet the requirements contained in subsection (g) if the paraprofessional:

(1) works in a Title I targeted assistance program, as opposed to a Title I school-wide program, unless the paraprofessional's salary is funded, in whole or in part, by Title I Part A; or

(2) does not provide instructional support, such as a person who solely provides personal care.

~~(j) Notwithstanding any other individual right of action that a parent or student may maintain under this article, nothing in this article shall be construed to:~~

~~(1) create a right of action on behalf of an individual student or class of students for the failure of a public agency employee to meet the requirements described in subsection (a) of this section; or~~

~~(2) prevent a parent from filing a complaint about staff qualifications with the division of special education under 511 IAC 7-45-1.~~

SECTION 2. 511 IAC 7-36-3 IS AMENDED TO READ AS FOLLOWS:

**511 IAC 7-36-3 Special education teachers**

Authority: IC 20-19-2-8; IC 20-19-2-16

Affected: IC 20-19-2; IC 20-33

Sec. 3 (a) A special education teacher who teaches in a public elementary, middle, junior high, or high school in the state must meet the following requirements:

(1) The teacher has obtained full state licensure as a special education teacher, including licensure obtained through an alternative route, as described in subsection (b), or passed the state special education teacher licensing examinations and holds a license to teach in the state as a special education teacher, **except that when used with respect to any teacher teaching in a public charter school, the teacher must meet the certification or licensing requirements, if any, set forth in the State's public charter school law;**

(2) The teacher has not had special education licensure requirements waived **on an emergency, temporary, or provisional basis; and**

(3) The teacher holds at least a bachelor's degree.

(b) A teacher will meet the requirement in subsection (a)(1) if that teacher is participating in an alternative route to special education licensure program under which the:

(1) teacher:

(A) receives high-quality professional development that is:

- (i) sustained;
- (ii) intensive; and
- (iii) classroom-focused;

in order to have a positive and lasting impact on classroom instruction, before and while teaching;

(B) participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;

(C) assumes functions as a teacher only for a specified period of time not to exceed three (3) years; and

(D) demonstrates satisfactory progress toward full licensure ~~as prescribed by the state in accordance with the requirements set forth in 511 IAC 16-4-8(d)-(e); and~~

(2) state ensures, through its licensure process, that the provisions in subdivision (1) are met.

**(c) The person designated as a student's teacher of record shall:**

**(1) for kindergarten through grade 12, be appropriately licensed in the area of the student's disability or, where appropriate state licensure is not available, appropriately trained; and**

**(2) for early childhood, hold an appropriate license to teach early childhood special education.**

SECTION 3. 511 IAC 7-36-3.5 IS ADDED TO READ AS FOLLOWS:

### **511 IAC 7-36-3.5 Policy and Rule of Construction**

**Authority:** IC 20-19-2-8; IC 20-19-2-16

**Affected:** IC 20-19-2; IC 20-33

**Sec. 3.5 (a) The public agency must take measurable steps to recruit, hire, train, and retain personnel who meet the applicable requirements described in 511 IAC 7-36-2 and 511 IAC 7-36-3 to provide special education and related services under this article to children with disabilities.**

**(b) Notwithstanding any other individual right of action that a parent or student may maintain under this article, nothing in this article shall be construed to:**

- (1) create a right of action on behalf of an individual student or class of students for the failure of a public agency employee to meet the requirements described in subsection (a) of this section; or**
- (2) prevent a parent from filing a complaint about staff qualifications with the division of special education under 511 IAC 7-45-1.**

### **SECTION 4. 511 IAC 10.1-3-7 IS ADDED TO READ AS FOLLOWS:**

#### **511 IAC 10.1-3-7 Preparation**

**Authority:** IC 20-28-4-10

**Affected:** IC 20-28-4

**Sec. 7. (a) A department-approved transition to teaching program offered by an institution of higher education may offer the course of study as either undergraduate or graduate level. A department-approved program offered by an entity other than an institution of higher education may offer a noncredit hour based certificate.**

**(b) The qualified person must meet the general admission standards of the approved program for the credit or certificate being awarded.**

**(c) The course of study may be part of a degree program, but a participant is not required to earn a degree to successfully complete the preparation program.**

**(d) The preparation shall include the following:**

**(1) The course work, ~~and field experiences~~, and classroom experiences that prepare the participant to successfully master the developmental standards **set forth in 511 IAC 13-1-1(c)**.**

**(2) The performance assessments defined in the approved program assessment system that document mastery of the developmental standards **established pursuant to 511 IAC 13-1-2**.**

**(e) ~~Under IC 20-28-4, p~~ Preparation shall require ~~not more than the following:~~**

**(1) ~~Eighteen (18) credit hours for secondary teaching. Not more than the number of credit hours set under IC 20-28-4.~~**

**(2) ~~Twenty four (24) credit hours for elementary teaching, including a At least six (6) credit hours in reading instruction for elementary teaching.~~**

**(3) ~~Twenty four (24) credit hours for P-3 teaching, including a At least six (6) credit hours in reading instruction for prekindergarten through grade 3.~~**

**(f) ~~Preparation for P-12 teaching shall require not more than twenty four (24) credit hours.~~ The Department shall provide guidance on the requirements for program design to meet credit hours.**

**(g) Transition to Teaching** programs preparing teachers for licensure in a special education area under 511 IAC 15-6-10 must meet the requirements of 34 CFR §300.156(c)(2) and 511 IAC 7-36-3(b) to ensure:

(1) an enrolled teacher:

- (A) receives high-quality professional development that is sustained, intensive, and classroom-focused in order to have a positive and lasting impact on classroom instruction, before and while teaching;
- (B) participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;
- (C) assumes functions as a teacher only for a specified period not to exceed three years; and
- (D) demonstrates satisfactory progress toward full certification as prescribed by the department in subsection (h); and

(2) the department ensures, through its program review, approval, monitoring, and licensure processes, which incorporate the 2020 revision of the Initial Practice-Based Professional Preparation Standards for Special Educators, the 2020 revision of the Initial Practice-Based Professional Standards for Early Interventionists/Early Childhood Special Educators, and High Leverage Practices published by the Council for Exceptional Children, that the provisions set forth in this subsection are met.

(h) As required in subsection (g)(1)(D), to demonstrate satisfactory progress an enrolled teacher must:

- (1) commit to completing the approved Transition to Teaching program for special education licensure within three years after admission to that program; and
- (2) complete a minimum of six (6) semester hours of coursework, or the equivalent if enrolled in a non-higher education program, per academic or calendar year unless the education program provider has a greater annual progress requirement for the enrollee to remain in good standing, in which case the program provider requirement must be met.

(i) An approved transition to teaching program provider under subsection (g) is responsible for monitoring the progress of teachers enrolled in their program under subsection (h) and shall include information on the academic progress of enrollees in the annual report to the department as required in sections 9(b) and (c) of this rule.

SECTION 5. 511 IAC 16-4-1 IS AMENDED TO READ AS FOLLOWS:

#### **511 IAC 16-4-1 Emergency Permits**

Authority: IC 20-28-2-6

Affected: IC 20-28-11.5; IC 25-35.6-1-8.5

Sec. 1. (a) An emergency permit is valid only for the school year during which it is granted.

(b) To qualify for an emergency permit, the applicant must submit the following:

- (1) An application for an emergency permit approved by an employing school superintendent between July 1 and ~~February 1~~ **April 30** of the school year for which the emergency permit is requested but not later than four (4) weeks after the applicant for the emergency permit begins service.
- (2) Documentation from the employing school superintendent certifying an emergency need for the applicant in the content area or areas or the school setting or settings of the request.
- (3) The established fee for issuance of the license.
- (4) The license being renewed, if applicable.
- (5) All necessary evidence of eligibility.
- (6) Any additional documentation.
- (7) An official transcript showing successful completion of a baccalaureate degree from ~~an~~ a **regionally accredited** institution of higher education.

(c) The department may grant an applicant with an expired Indiana license a one-time nonrenewable emergency permit for continuing education if the applicant provides documentation that the applicant has not been employed as a full-time or part-time teacher, administrator, or school services personnel, not including substitute teacher, at any time during the school year prior to the date of application.

(d) An emergency permit is renewable annually in the same content area or areas or school setting or settings if the applicant provides documentation of progress in pursuit of completion of an approved program for licensure and completion of testing requirements, **except that no emergency permits in a content area under 511 IAC 15-6-10 will be issued or renewed after June 30, 2022.**

(e) ~~An applicant for an emergency permit in communication disorders under 511 IAC 15-6-24 shall comply with the requirements set forth in IC 25-35.6-1-8.5.~~

SECTION 6. 511 IAC 16-4-8 IS ADDED TO READ AS FOLLOWS:

**511 IAC 16-4-8 Alternate Route to Special Education Licensure**

**Authority:** IC 20-28-2-6

**Affected:** IC 20-28-11.5; IC 25-35.6-1-8.5

**Sec. 8. (a) For purposes of this rule, an approved alternative route program for special education licensure in one or more of the areas found at 511 IAC 15-6-10 is a path to an initial professional educator license or to a content area addition to an existing professional educator license that is not an approved traditional undergraduate special education licensure preparation program.**

**(b) An approved alternative route program for special education licensure may include a Transition to Teaching program for special education licensure if that program has been reviewed by the department and determined to meet the requirements in subsection (d).**

**(c) A special education teacher who teaches in a public elementary, middle, junior high, or high school in the state must meet the following requirements:**

**(1) The teacher has obtained full state licensure as a special education teacher, including licensure obtained through an alternative route, as described in subsection (d) of this rule.**

(2) The teacher has not had special education licensure requirements waived.

(3) The teacher holds at least a bachelor's degree.

(d) A teacher will meet the requirement in subsection (c)(1) if the teacher is participating in an alternative route program for special education accredited under 511 IAC 13 under which the:

(1) teacher:

(A) receives high-quality professional development that is:

(i) sustained;

(ii) intensive; and

(iii) classroom-focused;

in order to have a positive and lasting impact on classroom instruction, before and while teaching;

(B) participates in a program of intensive supervision that consists of structured guidance and regular ongoing support for teachers or a teacher mentoring program;

(C) assumes functions as a teacher only for a specified period not to exceed three (3) years; and

(D) demonstrates satisfactory progress toward full licensure as prescribed by the state in subsection (e).

(e) As required in subsection (d)(1)(D), to demonstrate satisfactory progress an enrolled teacher must:

(1) commit to completing the approved alternative route program for special education licensure within three years after admission to that program; and

(2) complete a minimum of six (6) semester hours of coursework, or the equivalent if enrolled in a non-higher education program, per academic or calendar year unless the education program provider has a greater annual progress requirement for the enrollee to remain in good standing, in which case the program provider requirement must be met.

(f) A teacher enrolled in an approved alternative route program for special education licensure that has been reviewed and determined to meet the requirements of subsection (d)(1) may be eligible to be issued a three-year non-renewable Alternative Route Special Education Teaching License under this rule.

(g) An applicant for an Alternative Route Special Education Teaching license must:

(1) hold a bachelor's degree from a regionally accredited institution;

(2) provide verification of enrollment and an established program of study in an approved alternative route program for special education licensure that meets the requirements of subsection (d)(1);

(3) be employed in an Indiana school as a teacher in the special education content area that corresponds to the approved program in which the applicant is enrolled; and

(4) submit all other required application materials and fees, as specified by the department in accordance with 511 IAC 16-1-2 and 511 IAC 16-2-1.

(h) The application for the Alternative Route Special Education Teaching license must be approved by the school employer. The school employer may partner with the

**approved alternative licensure program where the license holder is enrolled to ensure the requirements of subsections (d)(1)(A) and (B) are met.**

**(i) Upon completion of an approved alternative route program for special education licensure, an applicant who:**

- (1) passes all required licensure tests as adopted by the board pursuant to 511 IAC 15-7-2;**
- (2) provides required application materials pursuant to 511 IAC 16-2-1; and**
- (3) provides the fee as specified by the department under 511 IAC 16-1-2;**

**will be eligible for a professional educator license in the content area of the special education alternative route program.**