

**Choice Scholarship Program
Special Education Services FAQ
2019-2020 School Year**

Information contained in this document reflects current law and may be subject to change after the current session of the Indiana General Assembly.

- 1. What information should a Choice school provide to a parent prior to the parent making a selection of the special education service provider?**

If the Choice school is not able to provide any special education services, the Choice school should advise the parent accordingly. The parent's selection of the Choice school as the special education service provider is contingent upon the Choice school's willingness and ability to provide special education services. If the Choice school is able to provide special education services, the Choice school should advise the parent of the nature of those services. The Choice school should also let the parent know that if the Choice school is selected as the provider, the Choice school will meet with the parent to determine the appropriate services and a written Choice Scholarship Education Plan (CSEP) will be developed and implemented.
- 2. When must the parent make the selection of a special education service provider?**

At the time the parent applies for a Choice Scholarship for an eligible student with a disability, the parent must also select a special education service provider – either the Choice school or the public school corporation where the Choice school is located.
- 3. How often and when can a parent of a Choice Scholarship student with a disability select a special education service provider?**

A parent must select a special education service provider on the Choice application by September 1, 2019. However, the parent has the right to revoke consent after the Choice application deadline.
- 4. Can a parent revoke consent to the Choice school's provision of special education services/implementation of the CSEP?**

Yes. The parent may revoke consent by providing the Choice school with written notice that the parent is revoking consent.
- 5. How will the public schools be informed of the parent's selection of a special education provider?**

The Office of School Finance will provide public schools with the list of students that have selected to have their special education services provided by the Choice school. The public school will not be responsible for providing services to these students.
- 6. What are the public school's responsibilities in providing services to a Choice Scholarship student with a disability who has selected the Choice school as the special education service provider?**

The public school is responsible for the initial determination of eligibility and then any reevaluations or independent evaluations requested by the parent or later determined necessary.

7. **What are the public school’s responsibilities in providing services to a Choice Scholarship Student with a disability who has selected the public school as the special education service provider?**

The public school must comply with 511 IAC 7-34 and 511 IAC 7-49-10 when providing services to Choice Scholarship students and non-Choice Scholarship students with disabilities. In addition, public schools must consider all parentally-placed nonpublic students with disabilities, including Choice students, when determining how the schools will expend their proportionate shares of federal special education funds on nonpublic students. Choice and non-Choice students with disabilities are to be treated equally with these funds.

8. **What rights do parents/students give up if the Choice school is selected as the special education service provider?**

Under Indiana’s special education rules (511 IAC 7), a parent has certain procedural safeguards when special education services are provided by the public school. For example, the public school must provide the parent with specific notices for case conference committee meetings or when the school proposes to change the student’s Individualized Education Program (IEP) or Service Plan (SP). There are established timelines within which the public school must do various things. A parent may file a complaint with the Department if the parent believes the public school is not following the rules or not implementing the student’s IEP or SP. A parent may also agree to engage in mediation with the public school or request a due process hearing if the dispute concerns issues such as child find, the appropriateness of an evaluation or reevaluation, or the determination of eligibility for special education services. A Choice school is not required to meet all of the procedural or substantive requirements that apply to public schools.

If a parent believes the Choice school is not following the rules or is not implementing the student’s CSEP, the parent must file the complaint with the Choice school first. The Choice school has the opportunity to first resolve the complaint at the school level. A parent may file a complaint with the Department only if the Choice school does not resolve the complaint to the satisfaction of the parent. Other remedies, such as mediation and due process hearings, are not available for disputes involving Choice students with disabilities who are receiving special education services from the Choice school. The rules regarding Choice students with disabilities who are receiving special education services from the Choice school may be found at 511 IAC 7-49.

9. **What information must the public school share with the Choice school when the Choice Scholarship student with a disability selects the Choice school as the special education service provider?**

If the Choice school makes a request to the public school for the education records of a Choice Scholarship student receiving special education services from the Choice school, the public school must provide the education records within ten (10) business days of the request.

10. **What is a Choice Scholarship Education Plan (CSEP)?**

A Choice Scholarship Education Plan, also called a CSEP, is a written plan that describes the special education and related services that will be provided to the eligible student by the Choice school. It is written jointly by the Choice school and the parent, and must include the following:

- Measurable goals;
- Information on how the student’s progress will be monitored and how parents will be informed of the student’s progress;
- Accommodations that the Choice school will provide to the student, including accommodations needed for the student to participate in statewide assessments; and
- The length, frequency, and duration of the special education and related services the Choice school will be providing.

The CSEP must also include a statement to inform the parents of the following:

- The parent must provide written consent in order for the Choice school to implement the CSEP;
- The parent may revoke consent at any time by providing a signed written statement revoking such consent;
- Revocation of consent encompasses the entire CSEP; and
- Upon receipt of the written revocation, the Choice school will stop implementing the CSEP.

11. What are the Choice school's responsibilities in providing services to a Choice Scholarship student with a disability who has selected the Choice school as the special education service provider?

The Choice school must:

- Within a reasonable time after enrollment, convene a meeting with the student's parent and appropriate Choice school staff to determine the student's special education and related service needs and develop a Choice Scholarship Education Plan (CSEP);
- Obtain the parent's written consent to implement the CSEP;
- Provide the parent with a copy of the CSEP;
- Implement the CSEP as written;
- Convene a meeting to review the student's CSEP within a reasonable time after a parent's request to review or modify the CSEP; and
- Review a returning student's CSEP at the beginning of the school year.

12. Who has child find responsibilities?

A public school corporation continues to be responsible for locating and identifying all students who are in need of special education and related services and who have legal settlement within the school's attendance area or who attend a non-public school located within the boundaries of the public school's attendance area.

13. How does a Choice Scholarship Education Plan (CSEP) differ from an Individualized Education Plan (IEP) or a Service Plan (SP)?

An IEP is much more comprehensive, contains more details, and is designed to ensure that a student receives a free appropriate public education. For more information on what an IEP includes, see 511 IAC 7-42-6. An SP is similar to an IEP, but is not required to include all of the components of an IEP. For example, an IEP must include statements about how and when the student will participate with nondisabled students and the student's need for an extended school year, as well as identify the student's placement in the least restrictive environment. An SP does not require these components. For more information on an SP, see 511 IAC 7-34-5.

14. Who writes the CSEP?

A CSEP is written by a group of people including Choice school staff and the parent/guardian (and student if appropriate).

15. Who approves the CSEP?

The Choice school and the parent work together to develop the CSEP. However, the parent must provide written consent before the Choice school may implement the services described in the CSEP.

16. How often must a CSEP be reviewed?

The CSEP must be reviewed upon the parent's request and at the beginning of the school year if the Choice Scholarship student is returning to the Choice school and has chosen the Choice school as the special education provider for the new school year.

17. Can the CSEP be modified mid-year?

Yes. The Choice school staff and the parent may modify the CSEP at any time.

18. What happens if the parent revokes consent to the CSEP?

If the parent revokes consent for the Choice school to implement the CSEP, the revocation is treated as a revocation of the selection of the Choice school as the special education service provider. As a result, the public school then becomes responsible for the provision of special education services and will need to develop an SP.

When the Choice school receives the parent's written revocation, it must immediately notify the public school corporation where the Choice school is located in writing that the student is no longer receiving services from the Choice school and provide the public school corporation with a copy of the student's CSEP. Within ten (10) instructional days of receiving the written notice from the Choice school, the public school corporation must convene a case conference committee meeting and develop an SP. Although it is not required by law, if a parent revokes consent for the provisions of special education services by the Choice school, it would be beneficial and advisable for the parent to notify the public school corporation as well that the parent has revoked consent at the Choice school.

19. Can a parent decline to consent to the public school corporation's implementation of a Service Plan (SP)?

Yes. The parent is not required to accept special education and related services from the public school corporation. The parent may decide that the student will receive no special education or related services.

20. Who reports the Choice Scholarship students with disabilities?

The student will be reported by the school that is providing special education and related services to the student on the annual special education count date. The school that reports the student will receive the State special education funding for that student.

21. What information is the Choice school required to provide for the special education student count date?

At the time the parent/guardian applies for a Choice Scholarship for an eligible student with a disability, the parent must also select a special education service provider – either the Choice school or the public school corporation. If the parent/guardian selects the Choice school as the special education service provider, and the student is enrolled at and receiving special education services at the Choice school on the special education count day, then the Choice school must submit the corresponding reports during special education collections via the STN Center.

22. How and when will Choice Scholarship payments for students with disabilities be made to a Choice school?

The Office of School Finance will make a distribution of special education funds for eligible Choice Scholarship students in February. The February special education distribution will include the full year special education payment amount. Prior to the payment, the parent or guardian of an eligible special education student will be required to complete a Special Education Endorsement Form.

23. If a Choice Scholarship Student with a disability for whom the Choice school has been providing special education services leaves mid-year, what happens to the Choice Scholarship payment already received by the Choice school?

Per IC 20-51-4-6, the Choice payment will be prorated by the Department to reflect a lesser amount; if the Choice school has already received a Choice Scholarship payment or the State special education payment for this student, the Department will request a prorated refund from the Choice school. Both the original scholarship award and the special education funding are subject to proration when a student withdraws from the Choice school.

24. **If a Choice Scholarship student with a disability has been receiving special education services from the Choice school and returns to the public school, what information must the Choice school share with the public school?**

Generally, the Choice school must provide the Choice Scholarship student's educational records within ten (10) business days of receiving a request from a public school for such records. However, if the parent is in breach of a contract with the Choice school that conditions release of student records upon the payment of outstanding tuition and other fees, the Choice school is required to provide only sufficient verbal information to permit the public school to make an appropriate placement decision regarding the student.

25. **What does the public school do if a Choice Scholarship student with a disability leaves the Choice school and enrolls in the public school?**

The public school should immediately request the student's educational records from the Choice school, convene a case conference committee meeting, and develop an IEP for the student. The public school should treat the student in the same manner it would treat any student transferring into the school from a nonpublic school.

26. **What is the public school's obligation to Choice Scholarship students in determining how the public school will spend its proportionate share of federal special education funds?**

The public school is required to consider all parentally-placed nonpublic school students with disabilities, including those who have selected the Choice school as the special education provider, when determining how it will spend its proportionate share of Federal special education funds. The public school may choose to spend all, part, or none of its proportionate share of federal funds on Choice Scholarship students who receive special education services from the Choice school.

27. **Can you explain what the discrimination clause in the Choice school application means?**

The discrimination clause in the Choice school application assurances does not add any additional requirements of Choice schools that were not already in existence in current State civil rights law. Schools participating in the Choice program may still make admission decisions based on the school's ability to provide reasonable accommodations for special education services for a particular student requesting admission and should take into consideration the best interests of the student when making those decisions. However, schools may not have blanket policies that result in discriminatory admissions practices of students with disabilities. With respect to Choice students with special education service needs, Choice schools should continue to look to 511 IAC 7-49 for guidance on making decisions related to admission or decisions regarding the provision of services to the student.

Please note the rules for Choice schools and special education students can be found in 511 IAC 7-49, which is posted on the website at <https://www.doe.in.gov/specialed/laws-rules-and-interpretations>.