

MEMORANDUM

To: School Superintendents and Principals

From: Pam Wright, Director
Office of Special Education

Date: June 8, 2018

Re: House Enrolled Act 1420 – Various Education Matters
Series: 2 of 4

Background:

The Indiana General Assembly recently passed legislation addressing a variety of education matters. HEA 1420 amends IC 20-21-2-6 to provide that, subject to a student's individualized education program (IEP), service plan (SP), or Choice Scholarship Education Plan (CSEP) and the admission criteria adopted by the board of the Indiana School for the Blind and Visually Impaired (ISBVI), the student shall be received as a student provided the student is an Indiana resident of school age with a visual disability. IC 20-22-2-6 is similarly amended to provide that, subject to a student's IEP, SP, or CSEP and the admission criteria adopted by the board of the Indiana School for Deaf (ISD), the student shall be received as a student provided the student is an Indiana resident of school age with a hearing disability.

Guidance:

Under previous law, the enrollment of a student with a visual disability or hearing disability in the ISBVI or ISD (hereafter referred to as "State Schools") was subject to a determination of the student's case conference committee (CCC) based on the student's IEP, and the admission criteria of the State School. That process hasn't changed. Effective July 1, 2018, a nonpublic school student with a visual or hearing disability may be accepted by a State School provided the student is eligible to attend the State School.

What is the eligibility criteria for a nonpublic school student to attend a State School?

- The student must have been evaluated by an Indiana public school and determined eligible to receive special education services under 511 IAC 7-32 *et seq.* (Article 7).
- The student must be eligible to receive services under a SP developed under 511 IAC 7-34 *et seq.* or a CSEP developed under 511 IAC 7-49 *et seq.*
- If the student has a SP, the public school responsible for providing services under the SP must initiate and conduct a CCC meeting to develop and implement a SP. A representative of the State School should be a part of that CCC meeting. If the SP provides for services at a State School, compliance with the admission criteria of the State School is also required.
- If a student has a CSEP, the choice school must convene a meeting with the parent to develop the CSEP. A representative of the State School should be a part of that meeting. If the CSEP provides for services at a State School, compliance with the admission criteria of the State School is also required.

Does this mean that placement at a State School must be offered to every student with a hearing disability or a visual disability who is receiving services under a SP or CSEP?

These amendments do not change the way a public school determines the appropriate special education and related services to be offered through SPs for parentally-placed nonpublic school students with disabilities under the Individuals with Disabilities Act (IDEA) (20 USC §1400 *et seq.*; 34 CFR Part 300 and Article 7 (511 IAC 7). The federal law, as mirrored by Article 7, requires that public schools annually consult with nonpublic schools located within the attendance boundaries of the public school and representatives of parents of students with disabilities attending nonpublic schools to discuss a variety of topics, including: proportionate share; child find responsibilities; and how, where, and by whom special education and related services will be provided for nonpublic school students with disabilities. After the consultation, the public school makes the final decisions with respect to the services that will be provided to nonpublic school students with disabilities (34 CFR §§300.134 – 300.137; 511 IAC 7-34-4 & 5). After the consultation process and the public school's determination as to the services that will be provided to nonpublic school students with disabilities, the public school must initiate and conduct CCC meetings to develop and implement SPs. A SP must describe the specific special education and related services that the school has determined that it will provide to the student in light of the services that the school has determined, through the consultation process, it will make available to parentally-placed nonpublic school students. 511 IAC 7-34-5(c).

For choice scholarship students with disabilities who are receiving special education and related services from the choice school, the choice school must convene a meeting with the parent, during which the choice school and parent determine the choice scholarship student's special education and related service needs and develop a CSEP for the choice scholarship student.

What educational programs or curriculum will the nonpublic school student be able to access at the State School?

Generally, the nonpublic school student will be able to participate in any curricular or extracurricular activity of the State School, subject to availability and eligibility. However, neither the student's SP or CSEP can require the State Schools to offer any particular curricular or extracurricular offerings nor require that class schedules of the State Schools be arranged to meet the needs of nonpublic school students.

Who is required to provide transportation to enable nonpublic school students to attend a State School?

HEA 1420 does not address transportation of nonpublic school students to the State Schools. Under a SP, 511 IAC 7-34-8 provides that special education and related services may be provided at the nonpublic school, the public school, or a neutral site. If services are provided at a site other than the nonpublic school and transportation is required, the public agency must provide transportation from the nonpublic school or the student's home to the service site, and from the service site to the nonpublic school or student's home, depending on the timing of the services.

Does placement for part of the day have any effect on a student's choice scholarship?

Yes. If a student has received a Choice Scholarship to attend a choice school and then attends a State School for part of the day, the Choice Scholarship award will be prorated based on the FTE (full time equivalency) of the student.



Dr. Jennifer McCormick
Superintendent of Public Instruction

DEPARTMENT OF EDUCATION

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If you have any questions, please contact Dana Long at (317) 232-6675 or email dalong@doe.in.gov.