



INDIANA STATE BOARD OF EDUCATION

143 W. Market Street
Indianapolis, IN 46204

To: Indiana State Board of Education
From: Michelle Gough McKeown, General Counsel
Date: March 5, 2014
RE: Proposed Rule Language for 13-464

The Board needs to adopt proposed rule language to replace the emergency rule that was adopted to implement SEA 464 (2013). A stakeholder meeting was held in December during which consensus was reached. Upon additional consideration, small modifications were made through collaboration with Becky Bowman, Director of Special Education, and Michael Moore, Director of Legal Affairs at IDOE. I circulated the proposed language to the stakeholders, and one concern was expressed by an LEA. New language was drafted to address these concerns, and the language was again circulated. At this time, no concerns have been expressed.

DIGEST

Adds provisions to explain and implement the requirements for the education and special education and related services of children who are placed in a facility under the written order of a physician licensed under [IC 25-22.5](#) and for whom the facility provides educational services. Effective 30 days after filing with the Publisher.

SECTION 1. 511 IAC 1-6.1 IS ADDED TO READ AS FOLLOWS:

Rule 6.1 Physician-placed students in residential facilities

511 IAC 1-6.1-1 Applicability

Authority: IC 20-26-11-11.5

Affected:

Sec. 1. (a) This rule applies to students who have been placed in a facility under the written order of a licensed physician in accordance with [IC 20-26-11-11.5](#) and for whom the facility provides educational services.

SECTION 2. 511 IAC 1-6.1-2 IS ADDED TO READ AS FOLLOWS:

511 IAC 1-6.1-2 Definitions

Authority: IC 20-26-11-11.5

Affected:

Sec. 2. (a) **The following definitions apply throughout this rule:**

(1) "Facility" means a secure private facility licensed under [IC 31-27](#) to operate as a private secure facility under [465 IAC 2-11](#).

(2) "Medically placed student" means a student as defined in [IC 20-26-11- 11.5\(a\)\(4\)](#) who is placed in the facility under the written order of a physician.

(3) "School corporation" means the Indiana school or charter school that is receiving state tuition support for the student at the time of the student's admission to the facility except as provided in Section 8 of this Rule.

SECTION 3. 511 IAC 1-6.1-3 IS ADDED TO READ AS FOLLOWS:

511 IAC 1-6.1-3 Applicable laws and regulations

Authority: IC 20-26-11-11.5

Affected:

Sec. 3. (a) For a medically placed student, the facility acts in loco scholae for all education services, including special education and related services.

(b) The following shall apply with respect to medically placed students who have been identified by a school corporation as being a student with a disability for whom the facility provides special education and related services:

(1) [511 IAC 7-32](#).

(2) [511 IAC 7-36-10](#).

(3) [511 IAC 7-38](#).

(4) [511 IAC 7-43-1](#).

(5) [511 IAC 7-43-5](#).

(6) [511 IAC 7-45-1](#).

SECTION 4. 511 IAC 1-6.1-4 IS ADDED TO READ AS FOLLOWS:

511 IAC 1-6.1-4 Notice to school corporation

Authority: IC 20-26-11-11.5
Affected:

Sec. 4. (a) For each medically placed student as defined in this rule, the facility shall provide the school corporation with written notice that complies with the requirements of IC 20-26-11-11.5 and this rule.

(b) In addition to the notice requirements described in IC 20-26-11-11.5, the facility shall include the name and contact information for the primary contact at the facility.

(c) If a facility fails to timely provide the requisite notice, or the notice otherwise fails to comply with the requirements of IC 20-26-11-11.5, the school corporation shall not be liable for any per diem accruing between the date of admission and the date the school corporation receives the written notice from the facility.

SECTION 5. 511 IAC 1-6.1-5 IS ADDED TO READ AS FOLLOWS:

511 IAC 1-6.1-5 Consultation and reporting
Authority: IC 20-26-11-11.5
Affected:

Sec. 5. (a) Within five (5) business days of the school corporation's receipt of the written notice, the school corporation shall consult with the facility regarding the educational services, including any special education and related services to be provided to the medically placed student.

(b) As part of the consultation, the school corporation shall provide the facility with relevant documents from the medically placed student's education record, including the transcript of courses taken, current individualized education program (IEP) and most recent progress report(s), and the name and contact information for the individual who will serve as the school's primary contact for the medically placed student.

(c) The facility shall immediately provide the medically placed student with the level of educational services and instruction comparable to that of a student attending the medically placed student's school corporation.

(d) For students previously identified under 511 IAC 7 as eligible to receive special education services, the facility shall:

- (1) Implement the IEP as written within three (3) business days of receiving a copy of the IEP from the school corporation.**
- (2) Provide the school with a copy of the report of the student's progress towards meeting annual goals at the same time it provides the report to the student's parent as required by the student's IEP.**
- (3) Request that the school corporation convene a case conference committee meeting any time the facility believes the medically placed student's IEP needs to be modified.**
- (4) Implement any modified IEP as written.**

(e) Any modifications to the IEP shall be made in accordance with 511 IAC 7-42.

SECTION 6. 511 IAC 1-6.1-6 IS ADDED TO READ AS FOLLOWS:

511 IAC 1-6.1-6 Qualifications of individuals providing services
Authority: IC 20-26-11-11.5
Affected:

Sec. 6. (a) All personnel employed or contracted to provide special education or related services to medically placed students 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.

(b) Related service personnel who deliver services in their discipline may not have certification or

licensure requirements waived on:

- (1) an emergency;
- (2) a temporary; or
- (3) a provisional;

basis.

SECTION 7. 511 IAC 1-6.1-7 IS ADDED TO READ AS FOLLOWS:

511 IAC 1-6.1-7 Complaint Process

Authority: IC 20-26-11-11.5

Affected:

Sec. 7. (a) A complaint that a facility has failed to meet the requirements of this rule for students eligible to receive special education services under 511 IAC 7 may be filed as described herein.

(b) Any individual, group of individuals, agency, or organization may file a complaint alleging that a facility has failed to comply with the one (1) or more requirements of this rule. The complaint must:

- (1) be in writing;
- (2) include the name and address of the facility;
- (3) include a statement alleging that the facility has violated one (1) or more requirements of this rule or 511 IAC 7;
- (4) include the facts on which the alleged violation is based;
- (5) be signed by the complainant or complainants and include contact information of the complainant or complainants; and
- (6) be submitted to the facility and the division of special education.

(c) If the complaint alleges violations with respect to a specific medically placed student, the complaint must also include the name of the student.

(d) The division of special education shall investigate the complaint as described in 511 IAC 7-45-1.

(e) The facility is required to complete any corrective action resulting from the complaint investigation within the timeline prescribed by the complaint investigation report.

SECTION 8. 511 IAC 1-6.1-8 IS ADDED TO READ AS FOLLOWS:

511 IAC 1-6.1-8 School Corporation of Legal Settlement for Average Daily Membership and Special Education Child Counts

Authority: IC 20-26-11-11.5

Affected:

Sec. 8. (a) For purposes of 511 IAC 7-46, the school corporation that the medically placed student was attending at the time of admission shall include the student in the school corporation's average daily membership and special education child counts as long as the student remains eligible to be counted by the school corporation under IC 20-43-4.

(b) If, on the ADM count date in a subsequent school year, the medically placed student is no longer eligible to be counted by the school corporation that the student was attending at the time of admission to the facility, the school corporation shall not be liable for any payments to the facility for services provided subsequent to July 1 of that year.

(c) Upon learning that the medically placed student is no longer eligible to be counted by the school corporation, the school corporation shall provide the facility with written notice that includes the following:

- (1) A statement that the student is no longer eligible, under IC 20-43-4, to be counted by the school corporation.
- (2) An explanation of the reason the student is no longer eligible to be counted.
- (3) If known, the school corporation in which the student may be eligible to be counted.

(d) The facility shall work with the placing entity to identify the school corporation in which the student has legal settlement and would be responsible for providing educational services to the student absent the

student's placement in the facility.

(e) The facility shall report the student's attendance to the school as necessary for the school to report the student's attendance to the department.

SECTION 9. 511 IAC 1-6.1-9 IS ADDED TO READ AS FOLLOWS:

511 IAC 1-6.1-9 Process for Discharge

Authority: IC 20-26-11-11.5

Affected:

Sec. 9. (a) If a medically placed student is returning to a school corporation upon discharge from the facility, the facility shall consult with the school corporation regarding the student's educational services and progress during the student's admission to the facility at least thirty (30) calendar days prior to the actual discharge from the facility.

(b) Not later than ten (10) business days of receiving a request from a school corporation for the education records of a medically placed student who has been discharged from the facility, the facility shall provide the requested records to the school corporation.