

## **Article 7 Revisions as of 2/2010**

### **7-32-92 - added subsection (c)**

#### **511 IAC 7-32-92 "Student with a disability" defined**

(c) If a parent revokes consent for special education and related services in accordance with 511 IAC 7-42-15, the student is no longer a student with a disability.

### **7-40-3 - added subsection (g)(3)**

#### **511 IAC 7-40-3 Educational evaluations; in general**

(3) a parent's revocation of consent for special education and related services in accordance with 511 IAC 7-42-15.

### **7-40-4 - added language to subsection (a)**

#### **511 IAC 7-40-4 Initial educational evaluation; public agency written notice and parental consent**

Sec. 4. (a) Either a parent of a student or a public agency may initiate a request for an educational evaluation to determine if a student is eligible for special education and related services under this article. If a parent makes a request for an evaluation after revoking consent for special education and related services in accordance with 511 IAC 7-42-15, the public agency must treat the parent's request for evaluation as a request for an initial evaluation, and the evaluation must be conducted in accordance with this section.

### **7-42-8 - revised the language in subsection (a)**

#### **511 IAC 7-42-8 Individualized education programs; implementation; termination due to revocation of consent**

Sec. 8. (a) The services identified in an IEP must be provided as soon as the necessary arrangements are completed, but not later than the following:

- (1) Ten (10) instructional days after parental consent to the student's initial IEP is received.
- (2) Ten (10) instructional days after a public agency provides written notice described in section 7 of this rule regarding a student's proposed IEP. However, the public agency must continue to implement the current IEP if the parent challenges the proposed IEP by:
  - (A) requesting and participating in a meeting with an official of the public agency who has the authority to facilitate the disagreement between the parent and the public agency;
  - (B) initiating mediation under 511 IAC 7-45-2; or
  - (C) requesting a due process hearing under 511 IAC 7-45-3.
- (3) For students transitioning from early intervention services to early childhood special education, on the student's third birthday in accordance with 511 IAC 7-43-2.
- (4) The initiation date stated in the student's IEP in all other circumstances.

**7-42-15 - added section 15 to Rule 42 - This is the substance of the revocation rule - the changes to the other sections were made to align the other rules with the various requirements of the revocation rule.**

**511 IAC 7-42-15 Revocation of consent for special education and related services**

Sec. 15. (a) At any time after the parent gives consent for the initiation of special education and related services, the parent may revoke that consent by doing the following:

- (1) Putting the revocation of consent in writing.
  - (2) Signing the revocation.
  - (3) Submitting the written revocation to licensed personnel.
- (b) Within ten (10) instructional days of the date licensed personnel receive the parent's written revocation, the public agency must provide the parent with a copy of the written notice described in section 7 of this rule.
- (c) The public agency is not required to convene a CCC or develop an IEP when the public agency receives the parent's written revocation.
- (d) The public agency may ask the parent why the parent is revoking consent, but the public agency may not require the parent to provide an explanation, either orally or in writing, as a condition of terminating the provision of special education and related services. The public agency may not use the inquiry to delay or deny the termination of special education and related services.
- (e) A parent's revocation of consent covers all instruction, services, and supports included in the student's IEP, including, but not limited to, the following:
- (1) Specialized instruction.
  - (2) Related services.
  - (3) Accommodations.
  - (4) Adaptations.
  - (5) Modifications.
  - (6) Supports for the student or personnel on behalf of the student.
  - (7) Assistive technology devices and services.
  - (8) Placement outside of a general education classroom.
- (f) A parent may not revoke consent for fewer than all of the special education and related services included in the student's IEP.
- (g) The public agency may not terminate special education and related services until ten (10) instructional days after the parent receives the written notice described in subsection (b) unless the parent provides written consent for services to be terminated prior to the expiration of ten (10) instructional days after receipt of the written notice.
- (h) The public agency may not use mediation or a due process hearing to override the parent's revocation of consent for services.
- (i) Upon revocation of consent and termination of special education and related services, the student is no longer eligible as a student with a disability and is not entitled to the protections of this article, except as permitted in 511 IAC 7-44-9.
- (j) The public agency is not required to amend the student's educational records to remove any - 95 -

reference to the student's special education and related services when the parent revokes consent for services. This does not preclude a parent from requesting that the student's educational record be amended in accordance with the procedures contained in 511 IAC 7-38-2.

(k) The public agency shall not be considered to be in violation of the requirement to make a free appropriate public education available to the student when the public agency terminates the special education and related services to the student subsequent to the parent's revocation of consent in accordance with this section.

(l) If, after revoking consent, a parent wants the student to receive special education and related services, the parent must request an initial evaluation in accordance with 511 IAC 7-40-4 and the CCC must determine, in accordance with 511 IAC 7-40-6, if the student is eligible for special education and related services as a student with a disability as defined in 511 IAC 7-32-92.

#### **7-44-9 - added subsection (c)(4)**

##### **511 IAC 7-44-9 Protections for students not yet eligible for special education and related services**

(4) The parent of the student has revoked consent for special education and related services in accordance with 511 IAC 7-42-15.

#### **7-45-7 - inserted new subsection (d)(2) and renumbered the remaining subdivisions (this is not part of the revocation requirements, but was part of the federal rules adopted in December 2008).**

##### **511 IAC 7-45-7 Conducting the hearing**

(2) Be represented by an individual who is not an attorney as permitted by IC 4-21.5-3-15(b).