

MEMORANDUM

To: Superintendents and Principals

From: Catherine Danyluk
Director, Office of Student Services
Chief State Attendance Officer

Dana Long, Special Education Attorney/Due Process Supervisor

RE: Differences Between Certificate of Incapacity (IC 20-33-2-18) and Physician's Statement (511 IAC 7-42-12)

Date: July 27, 2018

The terminology of "certificate of incapacity" has caused a great deal of confusion over the years, and has been used interchangeably to refer both to the documentation that schools may require to justify or excuse a student's absence from school (I.C. 20-33-2-18) as well as the physician's statement required to trigger the requirement that schools provide instruction to students with injuries and temporary or chronic illnesses (511 IAC 7-42-12).

CERTIFICATE OF INCAPACITY

Compulsory school attendance. A student is required to attend school from the earlier of the date the student officially enrolls in a school or the beginning of the school year in which the student becomes 7 years of age until the date the student graduates, becomes 18 years of age, or becomes 16 years of age but is less than 18 years of age and has met the requirements of I.C. 20-33-2-9. I.C. 20-33-2-6.

Attendance policy. The governing body of each school corporation is required to have a policy addressing excused and unexcused absences. Generally, an absence is excused, and the student permitted to make up work, when the student is ill and unable to attend school. Typically, most schools permit a parent to call, send a written note, or communicate via email or other electronic means, to notify the school that a student is ill and unable to attend school. It is up to the school, consistent with its policy, to determine whether the absence is excused. If a student is absent for reasons specified by I.C. 20-33-2-15 through I.C. 20-33-2-17.5 the student is not recorded as being absent and cannot be penalized in any manner. I.C. 20-33-2-14.

Certificate of illness or capacity. When a student has missed multiple days, whether consecutively or in the aggregate, the school may verify the reasons for the student's absence. If the reason the parent hasn't sent the student to school is because of the student's illness or mental or physical incapacity, the school may require the parent to provide a certificate of the illness or incapacity. It is unlawful for the parent to fail or refuse to provide the certificate after it has been requested. I.C. 20-33-2-18.

The certificate must be signed by an Indiana physician; an individual holding a license to practice osteopathy or chiropractic in Indiana; or a Christian Science practitioner who resides in Indiana and is listed in the Christian Science Journal. Schools can use this model Certificate of Incapacity Form.

If sufficient medical documentation has already been provided to the school, it is not necessary to utilize this form. Documentation may have already been provided to the school nurse, Section 504 Coordinator, Special Education Director, or other school personnel.

PHYSICIAN'S STATEMENT

Instruction for students with injuries and temporary or chronic illnesses. All students with injuries and temporary or chronic illnesses that preclude their attendance in school must be provided with instruction. 511 IAC 7-42-12(a).

Physician's statement. Before instruction for a student unable to attend school can begin, the parent must provide a statement from a physician with a valid, unlimited license to practice medicine, or a Christian Science practitioner, that states either that the student has a temporary illness or injury that will require the student's absence from school for a minimum of 20 instructional days, or that the student has a chronic illness or other medication condition that will require the student's absence for an aggregate of at least 20 instructional days over the course of the school year.

The physician's statement should document the student's medical condition and document any accommodations the student may require to access the student's education. The physician does not make educational placement decisions, but should address only the reasons why, medically, the student is unable to attend school. The school may ask the parent for further documentation, or for consent to speak to the physician, if additional information is required to verify that the student is unable to attend school.

Educational services and placement. Once adequate documentation has been received to verify the medical reasons why the student will be unable to attend school for at least 20 instructional days, educational services should begin. A school cannot wait until a student has first missed 20 days of school before providing education to the student. If the student has an individualized educational program (IEP), the student's case conference committee (CCC) will determine the student's educational services and placement pursuant to 511 IAC 7-42-11. If the student is eligible for special education and related services under Section 504 of the

Rehabilitation Act of 1973 (Sec. 504), the student's Sec. 504 team should determine the services and placement of the student. If the student does not have an IEP or a Sec. 504 plan, the school will determine the educational services and placement of the student during the period of time the student is medically unable to attend school.

Instructional services. Instructional services must be provided by appropriately licensed school personnel. If services are provided by licensed personnel, the student is counted as being in attendance. Instruction may continue through the summer to enable a student to complete a semester to meet promotion or graduation requirements.

For additional information, please contact Cathy Danyluk at cdanyluk@doe.in.gov or Dana Long at dalong@doe.in.gov.

