



MEMORANDUM

To: Members of the State Board
From: Becky Bowman
Date: March 28, 2012
Subject: Proposed revisions to 511 IAC 6.2-8 and 9

The Department requests approval to revise the proposed rule language that was originally approved by the Board in November 2011. As you will recall, these rules describe the consequences for schools that remain in the lowest performance and improvement category over a period of time as described in IC 20-31-9-3 and IC 20-31-9-4. The revisions proposed herein are designed to ensure consistency and accuracy between the administrative rule and state statute. Certain aspects of the rule were originally proposed to gather public and expert opinion. The recommended changes reflect those public comments and the actions of the legislature. Dale Chu will provide additional information on the proposed revisions.

TITLE 511 INDIANA STATE BOARD OF EDUCATION

Proposed Rule
LSA Document #11-562

DIGEST

Amends 511 IAC 6.2-8 and 6.2-9 to establish new procedures for school improvement. Effective 30 days after filing with the publisher.

IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses

511 IAC 6.2-2; 511 IAC 6.2-8; 511 IAC 6.2-9

Rule 2. Definitions

511 IAC 6.2-2-3 "Board" defined

Authority: IC 20-31-10-1

Affected: IC 20-18-2-9; IC 20-31

Sec. 3. "Board" has the meaning set forth in **20-18-2-19**. ~~IC 20-10.1-1-17 [IC 20-10.1 was repealed by P.L. 1-2005, SECTION 240, effective~~

~~July 1, 2005. See IC 20-18-2-9.].~~

~~(Indiana State Board of Education; 511 IAC 6.2-2-3; filed Jun 28, 2001, 4:15 p.m.: 24 IR 3648; readopted filed Nov 20, 2007, 11:36 a.m.: 20071219-IR-511070386RFA)~~

Rule 8. Consequences; Quality Review

511 IAC 6.2-8-2 Quality review

Authority: IC § 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4

Affected: IC 20-31-9-3; IC § 20-31-9-4

Sec. 2. (a) The board shall direct that the department conduct a quality review of a school that is subject to IC 20-31-9-3.

(b) The board shall determine the scope of the review and appoint an expert team under IC 20-31-9-3.

511 IAC 6.2-8-3 Memorandum of agreement

Authority: IC § 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4

Affected: IC 20-31-9-3; IC § 20-31-9-4

Sec. 3. (a) Subsequent to a review conducted under section 2 of this rule, the department may offer the affected school corporation the opportunity to enter into a memorandum of agreement developed by the department.

(b) The memorandum of agreement must include the following:

~~(1) Student outcomes the school expects to achieve.~~

~~(2) Specific improvement in performance measures determined by the department.~~ **(1) Performance goals**

the department expects the school to achieve; and

(2) Specific interventions, aligned with the findings of the quality review, to improve academic outcomes of the school.

(Indiana State Board of Education; 511 IAC 6.2-8-3)

Rule 9. Consequences; State Board Action

511 IAC 6.2-9-1.5 Definitions

Authority: IC 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-31-9-3; IC 20-31-9-4; IC 20-31-9.5

Sec. 1.5 The following definitions shall apply throughout this article (511 IAC 6.2):

- (a) "Quality review" means an evaluation of academic quality indicators conducted by the department.
- (b) "Lead partner" means an organization that employs research-based strategies to yield demonstrable and sustainable results.
- (c) "Turnaround Academy" means a school that is subject to IC 20-31-9.5. For the limited purpose of federal funding, a Turnaround Academy is defined as a local education agency.

511 IAC 6.2-9-2 Hearing

Authority: IC 20-19-2-8; IC 20-31-9.5-6; IC 20-31-10-1; IC 20-31-9.5-6

Affected: IC 20-31-9-3; IC 20-31-9-4; IC 20-31-9.5

Sec. 2. Upon receiving notice from the board that the school has been placed in the lowest category and holding the public hearing required by IC 20-31-9-2(b), the governing body of the school shall forward meeting minutes to the Board within forty-five (45) days.

~~The state board shall hold at least one (1) public hearing in the school corporation where the school is located to consider and hear testimony concerning options for providing a quality education to the affected students.~~

(Indiana State Board of Education; 511 IAC 6.2-9-2; filed Jan 28, 2011, 3:08 p.m.: 20110223-IR-511100502FRA)

511 IAC 6.2-9-3 Options for improvement

Authority: IC 20-19-2-8; IC 20-31-10-1; IC 20-31-9.5-6

Affected: IC 20-31-8; IC 20-31-9-3; IC 20-31-9-4; IC 20-31-9.5

Sec. 3. If the state board determines, after conducting the public hearing described in section 2 of this rule, that intervention will improve the education received by the affected students, the state board may implement one (1) or more of the following options:

- (1) Merge the school with a nearby school that is in a higher category of school improvement under IC 20-31-8 and 511 IAC 6.2-6.
- (2) Assign a special management team to operate all or part of the school.
- (3) Implement the department's recommendations for improving the school.
- (4) Implement other options for school improvement expressed at the public hearing, including closing the school.
- (5) Revise the school's plan in any of the following areas:
 - (A) School procedures or operations.
 - (B) Professional development.
 - (C) Intervention for individual teachers or administrators.
- (6) Assign a lead partner to provide consulting services to the school**

(Indiana State Board of Education; 511 IAC 6.2-9-3; filed Jan 28, 2011, 3:08 p.m.: 20110223-IR-511100502FRA)

511 IAC 6.2-9-3.1 Amendment of Intervention; Turnaround Plan

Authority: IC § 20-3-1-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-31-9-3; IC § 20-31-9-4; IC 20-31-9.5

Sec. 3.1 (a) If the board imposes an intervention under IC 20-31-9-4, the board shall determine how many years the school is subject to the intervention. The board may decrease the number of years in a period, or renew the intervention for additional periods if the board considers the renewal to be necessary. Not later than July 30 of each year, the board shall determine whether the intervention will continue at each school that is subject to an intervention.

(b) After the board determines that an intervention is necessary for a school, the department shall create a turnaround plan, working with any special management team or lead partner that the board assigns the turnaround. The turnaround plan must:

- (1) explain the interventions to be implemented;**
- (2) set forth the parties primarily responsible for the interventions, including any special management teams;**
- (3) set forth the period for the interventions;**
- (4) define annual goals for the Turnaround Academy, including:
 - (A) academic goals;**
 - (B) attendance rate goals for teachers and students;**
 - (C) graduation rate goals;**
 - (D) financial management goals; and**
 - (E) any other goals the department determines are appropriate for the school; and****
- (5) identify the consequences for failure to meet the goals.**

(c) If the board authorizes the department to enter into a contract with a special management team as a part of a school intervention, the board may require a special management team to secure a performance bond, in an amount determined by the board, before the contract is finalized.

511 IAC 6.2-9-3.2 Analysis of Progress

Authority: IC 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-31-9-3; IC 20-31-9-4; IC 20-31-9.5

Sec. 3.2. (a) Each year, the board shall analyze data and information relating to a Turnaround Academy's attainment of its annual goals.

(b) In the third year of interventions, the board shall determine whether the special management team has reached the goals identified for the Turnaround Academy under section 3.1 of this rule. If the goals have been reached, the board may set aside the performance bond required under section 3.1 of this rule.

(c) If after the period designated for the intervention the board determines that interventions have failed to reach the goals set for the Turnaround Academy, the board may:

- (1) authorize the department to enter into a contract with a new special management team; or**
- (2) authorize the implementation of additional interventions under IC 20-31-9-4.**

511 IAC 6.2-9-4 Funding

Authority: IC 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-31-8; IC 20-43-4-1; IC 20-31-9-3; IC 20-31-9-4; IC 20-31-9.5

Sec. 4. (a) A ~~The~~ affected students who attends a Turnaround Academy or another school subject to intervention under this rule shall remain an eligible pupil of the school corporation where the student has legal

settlement under IC 20-43-4-1.

(b) The state board shall receive the recommendations of the department and determine the amounts of state support, **and local funds and federal funds** that are necessary to fund the option or options for improvement implemented by the state board **with respect to each Turnaround Academy.**

(c) The department shall do the following:

(1) ~~Withhold the amount determined under subsection (b) from state tuition support and federal funds otherwise to be distributed to the school corporation on account of the affected students as defined in IC 20-43 otherwise to be distributed to the school corporation of the school operated as a Turnaround Academy under this rule the amount determined under subsection (c) for the affected students. The amount withheld under this subdivision may not exceed the total per pupil funding for the affected students. Tuition support shall include basic tuition support (as defined in IC 20-43-6), special education grants (as defined in IC 20-43-7), career and technical education grants (as defined in IC 20-43-8), primetime program (as defined in IC 20-43-9), other tuition support grants (as defined in IC 20-43-10), and any grants funded by the general assembly~~

(2) Enter into any contracts necessary to implement the option or options for improvement implemented by the state board, including contracts with a special management team **or lead partner**. A contract with a special management team shall include, but is not limited to, the following provisions:

(A) The length of the contract.

(B) Consideration.

(C) Performance goals, which shall not be less than those expected of a school under IC 20-31-8.

(D) Cancellation procedures.

(E) Renewal procedures.

(F) Those components provided under section 6 of this rule.

(3) Make payments under the contracts with funds withheld from the school corporation under this section.

(d) The amount withheld under this section shall not exceed the total aggregate per pupil funding for the affected students.

(Indiana State Board of Education; 511 IAC 6.2-9-4)

511 IAC 6.2-9-4.1 Enrollment

Authority: IC § 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-31-9-3; IC § 20-31-9-4; IC 20-31-9.5

Sec. 4.1 (a) Under IC 20-31-9.5-4, any student who lives in the attendance area served by a school that operates as a Turnaround Academy under this chapter may attend the Turnaround Academy. The Turnaround Academy may not refuse enrollment to a student who lives in the attendance area.

(b) A Turnaround Academy may enroll a student who resides anywhere in Indiana.

(c) If the school is a magnet school, subsection (a) does not apply. Any magnet school that becomes a Turnaround Academy shall continue to apply the admissions policies previously established for and consistent with the operation of the magnet school

511 IAC 6.2-9-5 Special management team

Authority: IC § 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-24-8; IC 20-26-11-6; IC 20-28-6-3; IC 20-31-9-3; IC 20-43-4-1; IC § 20-31-9-4; IC 20-31-9.5

Sec. 5. (a) This section applies if the state board assigns a special management team to operate all or part of an existing school subject to IC 20-31-9-4.

(b) The special management team is not required to employ teachers and administrators through teacher contracts established by the state superintendent of public instruction under IC 20-28-6-3.

(c) The special management team may exercise any authority granted by the state board under IC 20-31-9.

(d)

~~The special management team must accept for enrollment a student who meets all of the following:~~

~~(1) The student is enrolled in:~~

~~(A) one (1) of the grade levels served by the school, if the special management team operates the entire school; or~~

~~(B) the grade level or program operated by the special management team if the special management team operates part of the school.~~

~~(2) The student has legal settlement within attendance area of the school as defined by the school corporation at the time the school becomes subject to intervention under IC 20-31-9-4.~~

~~_____ (e) The special management team may accept for enrollment, without regard to school attendance areas defined by the school corporation, a student who meets all of the following:~~

~~(1) The student is enrolled in one (1) of the grade levels served by the school.~~

~~(2) The student has legal settlement within the school corporation.~~

~~_____ (3) The school corporation has a policy that allows students to transfer schools within the district.~~

~~_____ (f) The special management team may accept a student who has legal settlement outside the corporation if all of the following are true:~~

~~(1) The student is enrolled in one (1) of the grade levels served by the school.~~

~~(2) The school corporation has a policy to accept students without payment of transfer tuition as permitted by IC 20-26-11-6.~~

(Indiana State Board of Education; 511 IAC 6.2-9-5)

511 IAC 6.2-9-6 Special management team; debt service; transportation; food service; capital projects; other services

Authority: IC § 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-20-5; IC 20-26-12; IC 20-31-9-3; IC 20-35; IC § 20-31-9-4; IC 20-31-9.5

Sec. 6. (a) The corporation shall continue debt service payments on corporation debt attributable to the school.

(b) If the board assigns a special management team, the board shall determine the necessary parties from the following list:

(1) the department,

(2) the school corporation, and

(3) the special management team

The parties determined by the board ~~The department, the school corporation, and the special management team~~ shall enter into a contract specifying the length of time, **types of services**, level of services, and entity responsible for providing necessary services to the school and students in the school.

(c) If the board assigns a lead partner, the board shall determine the necessary parties from the following list:

(1) the department,

(2) the school corporation, and

(3) the lead partner

The parties determined by the board shall enter into a contract that specifies the length of time, types of services, level of services, and entity responsible for providing necessary services to the school and students in

the school.

(ed) **The school corporation and the special management team may enter into a contract for the school corporation to provide any services for the school if it is deemed to be in the best interest of the students who attend the school. Any contract shall specify the length of time, level of services, and entity responsible for providing necessary services, including, but not limited to, the following:**

~~(1) Transportation.~~

(12) Food service.

(23) Educational and administrative technology and technology support.

~~(34) Special education services under IC 20-35 and 511 IAC 7.~~

~~(45) Career and technical education services under IC 20-20 and 511 IAC 8.~~

~~(56) Custodial, maintenance, groundskeeping, and other services.~~

(76) Instructional services in a particular curriculum area.

(87) Textbooks and supplemental materials under IC 20-20-5, IC 20-26-12, and 511 IAC 9.

(98) Student services under 511 IAC 4.

(109) ~~Extracurricular activities.~~ **Police and probation services.**

(ee) The corporation and special management team may enter into a contract or contracts for additional services.

(df) The department shall resolve disputes that arise in negotiation or execution of the contract under subsections (b), (c), (d) and (e). The decision of the department shall be the final administrative decision. (*Indiana State Board of Education; 511 IAC 6.2-9-6*)

511 IAC 6.2-9-7 Special management team; employment; employee benefits

Authority: IC 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 5-10.3; IC 5-10.4; IC 20-31-9-3; IC 20-31-9-4; IC 20-31-9.5

Sec. 7. (a) The special management team shall employ teachers, other school personnel, and Independent contractors that are:

- (1) described in the contract between the department and the special management team; and
- (2) necessary for the special management team to fulfill its responsibilities under this rule.

(b) Personnel employed by the special management team under this section are entitled to participate in insurance benefits offered by the special management team or offered to state employees.

(c) Personnel employed by the special management team are entitled to participate in:

- (1) a retirement program offered by the special management team;
- (2) the state teachers' retirement fund created by IC 5-10.4; or
- (3) the public employees' retirement fund created by IC 5-10.3.

(*Indiana State Board of Education; 511 IAC 6.2-9-7*)

511 IAC 6.2-9-8 Actions adverse to special management team; real and personal property; failure to fulfill requirements of rule

Authority: IC § 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-31-9-3; IC § 20-31-9-4; IC 20-31-9.5

Sec. 8. (a) The school corporation shall take no action adverse to the special management team's operation of

the school **Turnaround Academy**, services provided by lead partners, or implementation of any intervention ordered by the board. Action adverse may include, but is not limited to, a refusal by a school corporation to enter into a contract for services under section 6 of this rule.

(b) The school corporation shall take no action to dispose of or cloud the title of the real property on which the school **Turnaround Academy** is located.

(c) The school corporation shall not remove or dispose of personal property located in the school or, if located outside the school, assigned to the school.

(d) If the state board determines that the school corporation has taken an action or actions prohibited by subsections (a) through (c); ~~or (2) refused without just cause to enter into the contract required under section 6(b) of this rule;~~

The board may:

- (1) order the department to withhold additional state funds otherwise to be distributed to the school corporation in order to ~~permit the special management team to operate the school notwithstanding the prohibited or refused action.~~ **facilitate the full implementation of the special management team's operation of the school, the lead partner's assistance, or other prescribed intervention;**
- (2) **authorize the department to pursue any available legal action or equitable remedies;**
- (3) **amend the prescribed intervention; and**
- (4) **order the special management team or lead partner to carry out the prescribed intervention notwithstanding the actions of the school corporation.**

(Indiana State Board of Education; 511 IAC 6.2-9-8; filed Jan 28, 2011, 3:08 p.m.: 20110223-IR-511100502FRA)

511 IAC 6.2-9-9 Special management team; redistricting; assignment of students

Authority: IC § 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-31-9-3; IC § 20-31-9-4; IC 20-31-9.5

Sec. 9. (a) The school corporation shall not, without the agreement of the special management team, change the assignment of students to schools in the school corporation in such a way that the number or grade level or levels of students assigned to the school are changed significantly.

(b) If the special management team agrees to accept additional students as permitted in this rule, the state board, on application of the special management team, may determine that the special management team needs additional funds to operate the **Turnaround Academy** school.

(c) The department shall:

- (1) withhold the amount determined under subsection (b) from state support ~~and federal funds~~ otherwise to be distributed to the school corporation; **and**
- (2) **distribute the funds determined under subsection (b) to the special management team.**

511 IAC 6.2-9-10 Special management team; open meeting; public records; state board of accounts

Authority: IC § 20-31-10-1; IC 20-19-2-8; IC 20-31-9-4; IC 20-31-9.5-6

Affected: IC 20-31-9-3; IC § 20-31-9-4; IC 20-31-9.5

Sec. 10 (a) The special management team shall comply with IC 5-14-1.5, the open door law, and IC 5-14-3, access to public records.

(b) The special management team shall comply with the financial reporting requirements established by the

state board of accounts under IC 5-11-1.

(Indiana State Board of Education; 511 IAC 6.2-9-10; filed Jan 28, 2011, 3:08 p.m.: 20110223-IR-511100502FRA)