
TITLE 511 INDIANA STATE BOARD OF EDUCATION**Proposed Rule**
LSA Document #10-502**DIGEST**

Adds [511 IAC 6.2-8](#) to define the applicability of the rule, to require the state board of education to direct the department of education to conduct quality review of schools subject to [IC 20-31-9-3](#), and to allow the department to offer to enter a memorandum of agreement to an affected school corporation. Adds [511 IAC 6.2-9](#) to define the applicability of the rule, to require the state board to hold a public hearing to hear testimony on possible intervention options, to allow the state board to implement one or more described intervention options, to describe the pupils eligible for services provided as a result of board intervention, to establish the powers and exemptions of an outside manager appointed by the board to operate all or part of a school, to require the school corporations to continue debt service, transportation, food service, capital projects, or other services, to establish outside manager employment requirements and employee benefits, to require a school corporation to provide a leave of absence for teachers electing to teach at an affected school, and to prohibit school corporations from taking certain adverse actions toward the outside management or outside operation of a school. Effective January 1, 2011.

[IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses](#)[511 IAC 6.2-8](#); [511 IAC 6.2-9](#)

SECTION 1. [511 IAC 6.2-8](#) IS ADDED TO READ AS FOLLOWS:

Rule 8. Consequences; Quality Review**[511 IAC 6.2-8-1](#) Applicability**

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-31-9-3](#)

Sec. 1. This rule applies to schools subject to [IC 20-31-9-3](#).

(Indiana State Board of Education; [511 IAC 6.2-8-1](#))

[511 IAC 6.2-8-2](#) Quality review

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-31-9-3](#)

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

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

(Indiana State Board of Education; [511 IAC 6.2-8-2](#))

[511 IAC 6.2-8-3](#) Memorandum of agreement

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-31-9-3](#)

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.

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

SECTION 2. [511 IAC 6.2-9](#) IS ADDED TO READ AS FOLLOWS:

Rule 9. Consequences; State Board Action

[511 IAC 6.2-9-1](#) Applicability

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-31-9-3](#)

Sec. 1. This rule applies to schools that become subject to state board action under [IC 20-31-9-4](#).

(Indiana State Board of Education; [511 IAC 6.2-9-1](#))

[511 IAC 6.2-9-2](#) Hearing

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-31-9-3](#)

Sec. 2. 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](#))

[511 IAC 6.2-9-3](#) Options for improvement

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-31-8](#); [IC 20-31-9-3](#)

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 an individual or organization 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.

(Indiana State Board of Education; [511 IAC 6.2-9-3](#))

[511 IAC 6.2-9-4](#) Funding

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Sec. 4. (a) The affected students shall remain eligible pupils under [IC 20-43-4-1](#).

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

(c) The department shall do the following:

(1) Withhold the amount determined under subsection (b) from state support and federal funds otherwise to be distributed to the school corporation on account of the affected students.

(2) Enter into any contracts necessary to implement the option or options for improvement implemented by the state board, including contracts with an outside manager.

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

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

[511 IAC 6.2-9-5](#) Outside manager

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

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](#)

Sec. 5. (a) This section applies if the state board assigns an individual or organization as an outside manager to operate all or part of an existing school subject to [IC 20-31-9-4](#).

(b) The outside manager has the powers and exemptions of a charter school under [IC 20-24-8](#).

(c) The outside manager is not required to do the following:

(1) Bargain collectively with the employees of the school.

(2) Employ teachers and administrators through teacher contracts established by the state superintendent of public instruction under [IC 20-28-6-3](#).

(d) The outside manager may exercise any authority granted by the state board.

(e) The outside manager 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 outside manager operates the entire school; or

(B) the grade level or program operated by the outside manager if the outside manager 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](#).

(f) The outside manager 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.

(g) The outside manager 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](#).

A student who is accepted under this section is an eligible pupil under [IC 20-43-4-1](#).

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

[511 IAC 6.2-9-6](#) Outside manager; debt service; transportation; food service; capital projects; other services

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-20-5](#); [IC 20-26-12](#); [IC 20-31-9-3](#); [IC 20-35](#)

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

(b) The department, the school corporation, and the outside manager shall enter into a contract specifying the length of time, level of services, and entity responsible for providing necessary services to the school and students in the school, including, but not limited to, the following services:

- (1) Transportation.
- (2) Food service.
- (3) Educational and administrative technology and technology support.
- (4) Special education services under [IC 20-35](#) and [511 IAC 7](#).
- (5) Career and technical education services under [IC 20-20](#) and [511 IAC 8](#).
- (6) Custodial, maintenance, groundskeeping, and other services.
- (7) Instructional services in a particular curriculum area.
- (8) Textbooks and supplemental materials under [IC 20-20-5](#), [IC 20-26-12](#), and [511 IAC 9](#).
- (9) Student services under [511 IAC 4](#).
- (10) Extracurricular activities.

(c) The corporation and outside manager may enter into a contract or contracts for additional services.

(d) The department shall resolve disputes that arise in negotiation or execution of the contract under subsection (b). 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](#) Outside manager; employment; employee benefits

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 5-10.3](#); [IC 5-10.4](#); [IC 20-31-9-3](#)

Sec. 7. (a) The outside manager shall employ teachers, other school personnel, and independent contractors that are:

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

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

(c) Personnel employed by the outside manager are entitled to participate in:

- (1) a retirement program offered by the outside manager;
- (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](#) Outside manager; leave of absence

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-28](#); [IC 20-31-9-3](#)

Sec. 8. (a) The school corporation must grant a leave of absence to a teacher of a school in the school corporation who wishes to teach and has been accepted to teach at a school located within the boundaries of the corporation and operated by an outside manager.

(b) During the term of the leave of absence under subsection (a), the teacher's:

- (1)** seniority status under law continues as if the teacher were an employee of a school in the school corporation; and
- (2)** years as an employee of the school operated by the outside manager shall not be considered for purposes of permanent or semipermanent status with the school corporation under [IC 20-28-6](#), [IC 20-28-7](#), or [IC 20-28-8](#).

(Indiana State Board of Education; [511 IAC 6.2-9-8](#))

[511 IAC 6.2-9-9](#) Actions adverse to outside manager; real and personal property; failure to fulfill requirements of rule

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-31-9-3](#)

Sec. 9. (a) The school corporation shall take no action adverse to the outside manager's operation of the school.

(b) The school corporation shall take no action to dispose of or cloud the title of the real property on which the school 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:

- (1)** 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 order the department to withhold additional state funds otherwise to be distributed to the school corporation in order to permit the outside manager to operate the school notwithstanding the prohibited or refused action.

(Indiana State Board of Education; [511 IAC 6.2-9-9](#))

[511 IAC 6.2-9-10](#) Outside manager; redistricting; assignment of students

Authority: [IC 20-19-2-8](#); [IC 20-31-9-4](#)

Affected: [IC 20-31-9-3](#)

Sec. 10. (a) The school corporation shall not, without the agreement of the outside manager, 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 outside manager agrees to accept additional students as permitted in this rule, the state board, on application of the outside manager, may determine that the outside manager needs additional funds to operate the school.

(c) The department shall withhold the amount determined under subsection (b) from state support and federal funds otherwise to be distributed to the school corporation.

(Indiana State Board of Education; [511 IAC 6.2-9-10](#))

SECTION 3. SECTIONS 1 and 2 of this document take effect January 1, 2011.

[Notice of Public Hearing](#)

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