

**TO:** Members of the Indiana State Board of Education  
**FROM:** Jessica Conlon, Project Director, Strategy, Systems and Policy, TNTP  
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**DATE:** November 25, 2014  
**RE:** Initial Recommendations for Legislative and Regulatory Changes to Indiana's Evaluation System

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## Introduction

Since the passage of Public Law 90 in 2012, Indiana has been an exemplar to states and districts across the country for the strength of its teacher evaluation policies. More than two years after the enactment of this law, Indiana has encountered some implementation challenges and has asked TNTP to support with its goal of strengthening teacher evaluation policies and practices.

In this memorandum, we offer initial recommendations for the State Board of Education (SBOE) to consider in advance of the legislative session and while rulemaking is open. These recommendations are limited to policies that can be affected through legislation or regulation and are based on national best practices as well as our deep experience supporting states and districts to design and implement evaluation systems. The objective of these legislative and regulatory recommendations is to help Indiana create conditions necessary for successful implementation of the state law and model plan. Other implementation suggestions that do not require legislative action or rule-making will be included in our final recommendations which will be presented to the SBOE at the February 4, 2015 meeting. We expect our final recommendations to be informed by additional research as well the stakeholder engagement efforts that are currently underway.

## Recommendations

Our initial recommendations are outlined below and are categorized by whether they can be addressed through rule-making or will require legislative action. In an effort to limit the level of prescription in statute, we recommend addressing issues through regulation wherever the SBOE has existing authority.

### Recommendations that can be addressed through rule-making

#### **Consider defining “significantly inform”**

Indiana's law requires “[o]bjective measures of student achievement and growth to significantly inform” a teacher's evaluation. However, neither statute nor regulation explicitly defines “significantly inform,” which has reportedly resulted in some corporations under-emphasizing objective measures.<sup>1</sup>

It is our understanding that this language was intentionally left open to interpretation out of respect for the State's general preference to drive policy and decision-making to the local level wherever possible. Instead of mandating a specific floor or ceiling for objective measures, the Indiana Department of Education (IDOE) at the time of the law's adoption modeled the intent of “significantly inform” by requiring up to 50 percent of a teacher's rating to be based on objective measures in the State's model plan.

To ensure that all plans comport with the original intent of the “significantly inform” language, we recommend defining this term in regulation – most likely in 511 IAC § 10-6-4(b). From our evaluation design and implementation work in states like Louisiana, New Jersey, New York and Tennessee among others, we have observed firsthand how

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<sup>1</sup> Stand for Children, *Teacher Evaluation in Indiana: A Review of Public Law 90 and Its Implementation*. (2014).

the role of objective measures drive reliable and accurate evaluation results.<sup>2</sup> In a strong evaluation system, objective measures of student growth provide a point of reference for and a balance to more subjective components of the evaluation system. However, objective measures are only impactful if they are weighted appropriately – neither too low nor too great.<sup>3</sup>

For those reasons, we recommend that the definition of “significantly inform” includes minimum and maximum percentages of the summative evaluation rating that must be based on student achievement and growth. It may be necessary to provide multiple ranges to address the scenarios in which individual growth model data is not available. This approach will still allow corporations some flexibility to determine how the various objective measures are weighted within this and other parameters set out in 511 IAC § 10-6-4(b).

The SBOE has the authority to define this language under IC § 20-28-11.5-8(a)(1)(B) which explicitly directs the SBOE to define “the measures to be used to determine student academic achievement and growth under section 4(c)(2).”

We plan to solicit stakeholder feedback on the appropriate standard for “significantly inform,” and we fully expect our final recommendation to the SBOE on February 4<sup>th</sup> to be informed by stakeholder input, a review of the weighting used by local corporations to date and related research of best practices nationally.

### **Provide additional guidance to support the IDOE in its efforts to ensure corporations’ compensation models meet the State’s criteria**

IC § 20-28-9-1.5 provides for the IDOE and SBOE to work together to ensure corporations are in compliance with the state’s compensation requirements. However, the statutory requirements of their shared oversight are vague and could benefit from additional guidance from the SBOE.

Indiana law empowers the IDOE to verify that corporations have adopted compensation models that meet the criteria set out in state law. The SBOE, in turn, has the authority to take “appropriate action to ensure compliance” with state law. However, there is no guidance that further clarifies the IDOE and SBOE’s roles in ensuring corporations’ compensation models meet the requirements of state law. Below are some policies for consideration that may better support the IDOE:

- Establishing standards to guide the IDOE’s review and approval of corporations’ salary schedules
- Specifying how frequently salary schedules should be reviewed and when the IDOE should notify the SBOE of any compensation models in need of improvement
- Instituting a process for indicating whether a salary schedule has been approved and is in compliance with state law when it is published under IC § 20-28-9-1.5(f)
- Basing a corporation’s eligibility for grants or other funding related to teacher compensation on the status of its compensation model
- Providing a period of time in which a corporation must correct any aspects of its compensation model that do not meet the State’s criteria

The SBOE has the authority to issue new rules clarifying and enforcing compliance of these provisions under IC § 20-28-9-1.5(h).

Throughout stakeholder engagement, we will continue to explore these and other policies that will best support the IDOE. Stakeholder input will be incorporated in the final recommendations we deliver to the SBOE on February 4<sup>th</sup>.

### **Augment standards for training evaluators**

There are several provisions in Indiana statute and regulation that address requirements for evaluator trainings.

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<sup>2</sup> La. Rev. Stat. § 3902(B)(5); N.J.A.C. § 6A:10-4.1(c)(1); N.Y. Ed. Code § 3012-c(2)(a); Tenn. Code Ann. § 49-1-302(d)(2).

<sup>3</sup> The MET Project, *Ensuring Fair and Reliable Measures of Effective Teaching*. (2014).

- IC § 20-28-11.5-5 requires evaluators to receive training
- IC § 20-28-11.5-8 (a)(1)(D) requires the SBOE to establish standards for evaluator training
- IC § 20-28-11.5-8(a)(3) requires the SBOE and IDOE to ensure that ongoing training is available for evaluators and certificated employees
- 511 IAC § 10-6-3 establishes the minimum standards for evaluator training.

The standards generally require evaluators to be trained on how to collect and analyze evidence to make a summative judgment of a teacher's performance. They also require evaluators to be assessed on their abilities in these skills.

We have found that high quality evaluator training is essential to assessing teacher performance accurately and consistently. To that end, we recommend the standards for training be further developed to guide and support the IDOE and corporations in the training they provide to evaluators.

Any recommendation on evaluator training should include stakeholder perspectives, and we expect this topic to be a focus of the stakeholder engagement discussions we have planned. In the meantime, some policies for consideration are:

- Enable the SBOE to approve the training content, materials and evaluator assessment tool for the state's model plan
- If a corporation makes significant changes to its evaluation plan, ensure the corporation trains all evaluators on the changes before the plan goes into effect.

An important caveat to this recommendation is that additional training will require dedicated resources and personnel. The SBOE may wish to assess the current resource allocations and capacity at the IDOE and school corporations before increasing their obligations.

The SBOE has the authority to make these rule changes under IC § 20-28-11.5-5; IC § 20-28-11.5-8 (a)(1)(D) and IC § 20-28-11.5-8(a)(3).

### **Ensure the SBOE is familiar with assessment guidance**

Under 511 IAC § 10-6-4(a)(2), the IDOE is empowered to develop guidance and support corporations with creating and procuring student assessments. Because of the prominence of locally developed and procured assessments in all evaluation plans, the SBOE should be familiar with the assessment guidance.

One way to ensure that the SBOE is adequately acquainted with assessment guidance is to revise 511 IAC § 10-6-4(a)(2) so that a regular reporting cycle is implemented. This reporting cycle could include a provision that the SBOE receive a written update on any changes or additions to assessment guidance on a regularly scheduled basis as requested by the SBOE.

We anticipate that assessment guidance will be a topic of discussion during our stakeholder conversations, and we plan to incorporate that feedback into our final recommendations to the SBOE.

The SBOE has the authority to make these rule changes under IC § 20-28-11.5-8 (a)(1)(B).

## Recommendations that may require legislative action

### **Create structures that ensure consistency of evaluation plans across the state**

One of the features of Indiana's evaluation policies is the level of local control that corporations have to determine the evaluation plan that best fits their needs. Unfortunately, over the last two years a number of corporations have adopted plans that do not yet comply with the required elements.<sup>4</sup>

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<sup>4</sup> Indiana's 2014 ESEA Flexibility Request at 263.

A best practice for states that value local control is to institute oversight structures that balance the benefits of flexibility and autonomy for districts with the need to ensure a consistent standard of rigor.<sup>5</sup> In order to support corporations to develop and implement evaluation plans that are in compliance with state law, it may be necessary to put structures in place that empower the IDOE to provide more oversight of modified and locally-created plans.

#### *Structures to ensure consistent plan adoption*

First, the current language of IC § 20-28-11.5-8(c) states that the IDOE “may request” to review a school corporation’s modified or locally-developed plan. In addition, IC § 20-28-11.5-8(d) requires all corporations to submit their plans to the IDOE, but no review or approval is explicitly required except to qualify for certain grants.

This current policy allows corporations to remain passively non-compliant and places the burden of seeking out non-compliance on the IDOE. Additionally, because review of plans is optional, this policy creates a situation in which not all corporations are held to the same standard of review. As a result, the current policy does not place the IDOE in a position to successfully ensure all corporations have adopted plans consistent with state law.

For these reasons, an alternative approach should be considered that standardizes the review and approval process so that modified or locally-created plans must be submitted for approval. This approach requires corporations to proactively seek approval for any plan that is not pre-approved, which appropriately distributes the burden of ensuring compliance among the IDOE and the corporations themselves. A similar review process could be used when corporations contemplate substantive changes to modified or locally-created plans. To ensure all corporations are held to the same standard of review, it may be wise to require an audit of all modified and locally-created plans before the 2015-16 school year. Finally, the SBOE should be notified on a regular basis as requested by the SBOE of any noncompliance so that it can support the IDOE with the enforcement of any corrective action.

#### *Structures to ensure consistent plan implementation*

A second strategy to ensure consistency across plans is to monitor whether they are being implemented with fidelity. The review and approval process suggested above ensures that corporations *adopt* plans that meet the state’s requirements. However, adopting an approved plan does not necessarily guarantee that all the plan’s elements have been executed.

One option to address this concern is to amend IC § 20-28-11.5-8 to provide for regular monitoring of corporations’ plan implementation. Ideally, the IDOE would periodically audit corporations to verify they are executing on all the required plan elements. Then, the IDOE would provide regular reports as requested by the SBOE that highlight any unauthorized variation in plan implementation. These structures will ensure corporations are adhering to their articulated plans and that the IDOE is supported in its oversight and enforcement duties.

As with our other recommendations, the above suggestions will benefit from stakeholder feedback – particularly from members of the IDOE and other state agencies, like the Indiana Education Employment Relations Board. We look forward to including their perspectives and national best practices in our final recommendations to the SBOE.

#### **Clarify the role of teachers in developing a corporation’s modified or locally-created plan**

IC § 20-28-11.5-8(c) requires that 75 percent of voting teachers approve of a corporation’s modified or locally-created plan. This section also appears to require a vote only if the IDOE requests to review the corporation’s plan.

We understand that the intent of these provisions is to encourage teacher involvement in designing a modified or locally-created plan. Teacher involvement is essential to the design process. It ensures that teachers’ perspectives – as the ultimate stakeholders – are represented in the system and that teachers feel invested in the system’s success. Teacher engagement at the design stage is a best practice that Tntp prioritizes whenever we partner with a state or district to design a new evaluation system. However, a vote of approval does not itself ensure teachers were involved

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<sup>5</sup> National Council on Teacher Quality, *State of the States 2013: Connect the Dots: Using Evaluations of Teacher Effectiveness to Inform Policy and Practice*. (2014).

in the design process – especially when the vote is required only when the IDOE requests review of the corporation’s plan.

Therefore, we recommend revising this provision so that it clarifies the role of teachers in the design process. One option is to have corporations that do not adopt one of the pre-approved plans to adopt structures and processes that involve teachers in the design of locally-created or modified plans. This teacher engagement process should also be used whenever a corporation seeks to make changes to its plan. As part of its review and approval of the modified or locally-created plan, the IDOE should also review the corporation’s teacher engagement processes and structures to confirm that they were thorough and equitable.

Again, we plan to explore the relative benefits of these approaches in more detail during our stakeholder engagement discussions. Our final recommendations will be informed by the feedback we receive.

### **Clarify the SBOE’s role in making changes to the State’s model plan**

Successful implementation often requires balancing the need for consistency with the need to adapt to changing or unforeseen conditions. To ensure Indiana can strike this balance with the implementation of its model plan, it may be helpful to implement a review and approval process before substantive changes are made to the model plan.

Although IC § 20-28-11.5-2 intends for the SBOE and IDOE to work together to create a model plan, the SBOE’s role in making subsequent changes to the model plan is unclear. One possible approach for clarifying the SBOE’s role is to amend this subsection to clarify whether the approval of changes to the model plan is required before it is rolled out to corporations. If SBOE approval is required, we recommend limiting any requirement for approval to substantive changes. The phrase “substantive changes” should be defined to include any alterations to the types of measures used, the weights of those measures, and content revisions to the Teacher Effectiveness Rubric (excluding minor grammatical edits). Review and approval structures like this will ensure the model plan remains consistent with the original intent and high standards with which it was designed.

### **Address the perceived negative impact of preventing salary increases for teachers rated “Improvement Necessary”**

The compensation structure outlined in IC § 20-28-9-1.5 is intended to reward and recognize teachers in a way that is commensurate with their performance. Eliminating automatic salary increases for teachers who have demonstrated quality performance in the classroom is a strong policy and a best practice that TNTP whole-heartedly endorses.<sup>6</sup>

However, in our very early stages of stakeholder engagement, it has been mentioned that preventing teachers rated “Improvement Necessary” from receiving salary increases may have contributed to the skewed ratings distribution the state recently reported.<sup>7</sup> Some stakeholders we interviewed speculated that this provision deters evaluators from giving teachers in need of development an honest assessment for fear of discouraging them by impacting their compensation.

Should the state wish to adjust this provision, we propose adopting one of the following three policy changes:

- Allow teachers to be rated “Improvement Necessary” two years in a row or “Improvement Necessary” followed by “Ineffective” before a salary increase is withheld.
- Allow teachers who have been rated “Improvement Necessary” to receive half of the salary increase they could have received had they been rated “Effective.” Limit their ability to receive this reduced salary increase to two consecutive years.
- Include a provision that allows teachers rated “Improvement Necessary” to apply for a waiver from the condition that they not be given a salary increase. The waiver can be granted if the teacher demonstrates

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<sup>6</sup> TNTP, *Shortchanged: The Hidden Costs of Lockstep Teacher Pay*. (2014).

<sup>7</sup> According to the IDOE, 87 percent of teachers in 2012-13 were rated “Effective” or “Highly Effective.” Retrieved from <http://www.doe.in.gov/evaluations>

extraordinary circumstances impacted his or her ability to perform at a level worthy of an “Effective” rating. The SBOE would be authorized to issue rules establishing the process and standards for reviewing and granting waivers.

We believe adopting one of these changes will maintain the original intent of the law – to recognize and reward our best teachers – while also allowing developing teachers to receive both the accurate feedback on performance they need to improve and a salary increase. This approach ensures teachers who do not improve are not rewarded for poor performance year after year.

However, we want to be clear that this change on its own will not significantly alter the ratings distribution most corporations have seen. Lopsided ratings distributions occur even in states and districts that do not tie performance to compensation. Additionally, most policy options simply change when or how the issue manifests. For instance, if a teacher does not improve in two years, then eventually there will need to be an evaluator who provides an honest and rigorous evaluation rating even when there are compensation implications. In our experience, the best way to alter ratings distributions is to provide extensive training and support for evaluators so they feel confident in their ability to assess teacher quality and empowered to make difficult judgments.

Finally, because any policy change to IC § 20-28-9-1.5 will have financial implications for corporations, we recommend the SBOE consult with corporations to determine whether any policy change would put them in an untenable financial position.

As with other our other recommendations, our suggested approach will be refined and informed by stakeholder perspectives and national best practices.

### **Support teachers’ understanding of their corporation’s evaluation plan**

There is no explicit requirement in statute or regulation that teachers be trained on their corporation’s evaluation plan. IC § 20-28-11.5-8(a)(3) requires that training and information is *available* for evaluators and “certificated employees” on the model plan, but there is no mandated training for teachers on the model plan or any evaluation plan.

In our experience, it is critical that teachers understand and trust the evaluation system on which they are being assessed. Training teachers on their corporation’s evaluation plan will provide an additional opportunity for the IDOE and individual corporations to engage and support teachers.

Because teacher training has not been required in the past, we first recommend amending IC § 20-28-11.5 to require all teachers be trained on their corporation’s plan. Like the evaluator training, we also recommend that the SBOE set standards for teacher training and establish an approval process for all training content. IC § 20-28-11.5-8 (a)(1)(D) could be amended to require the SBOE to set standards for both evaluator and teacher training.

Then in regulation, the State can flesh out the requirements as it does for evaluator training in 511 IAC §10-6-3. Again, we expect stakeholder feedback to inform the training standards. However, some options to consider are:

- Specify the content of trainings
- Require that the SBOE approve the training content for the state’s model plan

## **Conclusion**

The above represent our initial legislative and regulatory recommendations based on our knowledge of the state’s policies and our experience designing and implementing evaluation systems across the country. We deeply value the importance of incorporating the feedback from stakeholders. As we gather stakeholder feedback from around the state, we anticipate that these recommendations will evolve and others will emerge. We look forward to providing our final recommendations to the SBOE in February.