

STATE BOARD OF ACCOUNTS
302 West Washington Street
Room E418
INDIANAPOLIS, INDIANA 46204-2769

SPECIAL INVESTIGATION REPORT
OF

RISE UP ACADEMY
SOUTH BEND COMMUNITY SCHOOL CORPORATION
ST. JOSEPH COUNTY, INDIANA

July 1, 2018 to June 30, 2020



FILED
06/01/2021

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STATE OF INDIANA
AN EQUAL OPPORTUNITY EMPLOYER

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TO: THE OFFICIALS OF THE SOUTH BEND COMMUNITY SCHOOL CORPORATION, ST. JOSEPH COUNTY, INDIANA

This is a special investigation report for the South Bend Community School Corporation (School Corporation), for the period July 1, 2018 to June 30, 2020, and is in addition to any other report for the School Corporation as required under Indiana Code 5-11-1. All reports pertaining to the School Corporation may be found at www.in.gov/sboa/.

We performed procedures to determine compliance with applicable Indiana laws and uniform compliance guidelines established by the Indiana State Board of Accounts and were limited to records associated with student enrollment reporting at the Rise Up Academy. The Results and Comments contained herein describe the identified reportable instances of noncompliance found as a result of these procedures. Our tests were not designed to identify all instances of noncompliance; therefore, noncompliance may exist that is unidentified.

Any Official Response to the Results and Comments, incorporated within this report, was not verified for accuracy.

Paul D. Joyce
Paul D. Joyce, CPA
State Examiner

February 3, 2021

RISE UP ACADEMY
SOUTH BEND COMMUNITY SCHOOL CORPORATION
RESULTS AND COMMENTS

BACKGROUND

In accordance with Indiana Code 20-30-8, the School Corporation established the Rise Up Academy as an alternative school in the 2010-2011 school year. The Rise Up Academy serves juniors and seniors who have fallen behind in credits needed for graduation. Students have the option of attending in one of three ways and will be referred to throughout this report as such:

- Traditional: Student attends in-person in a classroom with other students and a teacher.
- Virtual: Student is required to get instruction and course work via a computer and internet connection.
- Hybrid: Student attends in-person in a classroom with other students and a teacher, but also gets instruction and course work via a computer and internet connection.

On July 13, 2020, the Indiana Department of Education (IDOE) notified the Indiana State Board of Accounts of irregularities related to the Rise Up Academy while looking into a complaint that students attending the Rise Up Academy were not being educated. The IDOE performed a review showing a vast majority of the students claimed for Average Daily Member (ADM) did not complete a course. Furthermore, the IDOE noted an increase in enrollment from one period count to the next of 112 students for the 2019-2020 school year.

We performed an investigation of the School Corporation's ADM reports for the Rise Up Academy for the period of July 1, 2018 to June 30, 2020. The results of our investigation are described in the following comments.

OVERPAYMENT OF STATE TUITION SUPPORT

Relevant to the 2019-2020 school year, Indiana Code 20-19-9-1 states, "As used in this chapter, 'virtual education program' means a program provided by a school corporation in which more than fifty percent (50%) of instruction, other than instruction for recovery credit courses, to students participating in the program is provided in an interactive learning environment created through technology in which the student is separated from a teacher by time or space, or both."

Background

Indiana Code 20-43-1 requires counts to be taken of eligible students enrolled and attending per a fall count and spring count. The relevant version of Indiana Code 20-43-4-3 for both school years 2018-2019 and 2019-2020 provides that the State Board of Education (SBOE) determines a date in September for the fall count and a date in February for the spring count.

The spring and fall counts of eligible students are submitted on an ADM.

The September Reports of ADM for 2018-2019 were used by the IDOE to calculate the tuition support payments to the School Corporation for the entire school year.

For school year 2019-2020, both the September and February Reports of ADM were used by the IDOE to calculate the tuition support payments to the School Corporation.

RISE UP ACADEMY
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State tuition support as referenced in this report, unless otherwise stated, consists of the following:

1. Basic Tuition Support used to support basic programs, and consists of the following:

- Foundation Amount, which is established for each school year by the applicable version of Indiana Code 20-43-3-8. The foundation amounts for 2018-2019 and 2019-2020 the amounts were \$5,352, and \$5,548, respectively, and is multiplied by the applicable ADM counts.
- Complexity Grants (Complexity Index) is the percentage of the School Corporation's students who receive Supplemental Nutrition Program (SNAP) benefits, Temporary Assistance for Needy Families (TANF) benefits, or foster care services per the relevant version of Indiana Code 20-43-13-4.

For school year 2018-2019, Indiana Code 20-43-13-3 regarding the calculation of basic tuition support indicates the foundation amount is multiplied by the applicable ADM counts, and the complexity grant is determined by multiplying the complexity index by the amounts set by statute at \$3,539, and the applicable ADM counts. For school year 2019-2020, Indiana Code 20-43-6-3 indicates the foundation amount for the calculation of basic tuition support is multiplied by the applicable ADM counts, and the complexity grant is determined by multiplying the complexity index by the amounts set by statute at \$3,650, and the applicable ADM counts.

2. Curricular Materials Reimbursement:

- Indiana Code 20-33-5-3 allows for a School Corporation to receive reimbursement for curricular materials, supplies, or other fees for students whose families meet the financial eligibility standards.

Count Period

The School Corporation did not have an attendance or engagement policy for students who attended virtually. Due to the lack of an attendance or engagement policy for students who attended virtually, we allowed for a count period rather than a strict adherence to a specific count date.

For the 2018-2019 school year, the September count date was September 14, 2018. For students who were attending virtual, we determined the count period to be from August 16, 2018 (beginning of first semester) to September 30, 2018.

For the 2019-2020 school year, the September count date was September 13, 2019, and the February count date was February 3, 2020. We determined the count periods to be from August 15, 2019 (the beginning of first semester) to September 30, 2019, for the September 13, 2019 count date, and from January 6, 2020 (the beginning of second semester) to February 28, 2020, for the February 3, 2020 count date.

In each case, students who had an electronic activity (login) during each of these count periods were considered eligible for inclusion on the ADM Count reports; however, students who did not log in at all, or logged in after the count periods, were determined to be ineligible for inclusion on the ADM Count reports.

RISE UP ACADEMY
SOUTH BEND COMMUNITY SCHOOL CORPORATION
RESULTS AND COMMENTS
(Continued)

No Log in Activity for Virtual Students on ADM Count Date

We reviewed Learner Daily usage log reports, which were generated from Edmentum (software program), which detailed the students' names, login dates and times, and logout dates and times to determine the log ins.

Below is a schedule of ineligible students by count dates.

	COUNT DATES		
	School Year 2018-2019	School Year 2019-2020	
	09-14-18	09-13-19	02-03-20
Students with NO LOG IN Activity	12	31	80
Students with LOG IN Activity After the Count Period	7	4	7
Total Students	19	35	87

Per Indiana Code 20-20-8-8, School Corporations are required to report course completions to the IDOE for each student, including if they received a passing or failing grade. Per the IDOE, if a student did not complete a course, the School Corporation had the option of reporting as "No grade awarded" or "Incomplete."

Using the course completion reports from the IDOE, which were submitted by the School Corporation, we determined course completions for the students deemed to be ineligible to be counted for ADM as follows:

	COUNT DATES		
	School Year 2018-2019	School Year 2019-2020	
	09-14-18	09-13-19	02-03-20
Student with NO Log In Activity:			
NO Course Completions	11	29	79
Recorded Course Completions	1	2	1
Total - Students with NO LOG IN Activity	12	31	80

RISE UP ACADEMY
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	COUNT DATES		
	School Year 2018-2019	School Year 2019-2020	
	09-14-18	09-13-19	02-03-20
Students with LOG IN Activity After the Count Period:			
NO Course Completions	3	3	7
Recorded Course Completions	4	1	-
Total - Students with LOG IN Activity After the Count Period	7	4	7

For the 2018-2019 school year, there were a total of 5 students who had course completions. These 5 students were enrolled in the virtual school during the count period but transferred to in-person instruction either on or after October 22, 2018.

For 2019-2020 school year, there were 4 students who had course completions. These 4 students were enrolled in virtual school during the count period, then transferred to in-person instruction on or after October 21, 2019, for the fall count period, and on or after March 23, 2020, for the spring count period.

The School Corporation claimed and received state tuition support totaling \$548,728.73 that it was not entitled to due to the lack of documentation supporting the enrollment and attendance (login) of students who attended the Rise Up Academy virtually.

Indiana Code 20-43-4-2(a) states:

"A school corporation's ADM is the number of eligible pupils enrolled in:

- (1) the school corporation; or
- (2) a transferee corporation;

on the day fixed in September by the state board for a count of students under section 3 of this chapter and as subsequently adjusted not later than the date specified under the rules adopted by the state board. The state board may adjust the school's count of eligible pupils if the state board determines that the count is unrepresentative of the school corporation's enrollment. In addition, a school corporation may petition the state board to make an adjusted count of students enrolled in the school corporation if the corporation has reason to believe that the count is unrepresentative of the school corporation's enrollment. In addition, a school corporation shall determine the number of eligible pupils enrolled in:

- (1) the school corporation; or
- (2) a transferee corporation;

on the day fixed in February by the state board for a spring count of students to be used only for informational purposes under this article. Except as specifically provided by law, the spring count shall not be used for determining school funding under this article."

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Indiana Code 20-43-4-1(a) states in relevant part: "An individual is an eligible pupil if the individual is a pupil enrolled in a school corporation . . ."

Indiana Code 20-43-1-11.5 states:

"'Enrolled' means to be:

- (1) registered with a school corporation to attend educational programs offered by or through the school corporation; and
- (2) attending these educational programs or receiving educational services."

Indiana Code 20-43-1-7.5 states: "'Attending' means physical or virtual presence of a student with the expectation of continued services in the education programs for which the student is registered."

Log In Activity for Virtual Students and Hybrid Students

Per Indiana Code 20-43-6-3, for the 2019-2020 school year, if a student received less than 50 percent of his or her instruction in a classroom, the School Corporation was only eligible to claim and receive 85 percent of the foundation amount of the state tuition support.

For the 2019-2020 school year, the School Corporation claimed and received 100 percent of the foundation amount of state tuition support for all students who attended the Rise Up Academy without consideration for percentage of in-person instruction each student received.

The School Corporation provided a report for the 2019-2020 school year, which enabled us to determine those students who attended virtually for the entire semester and/or school year, as well as students who attended both virtually and in person.

Using these reports, we calculated the ratio of the in-person instruction to the number of days attended during each semester. A result of less than 50 percent meant the School Corporation should have only claimed 85 percent of the foundation amount of the state tuition support.

There were 115 students (37 from period 1 and 78 from period 2) who did not receive more than 50 percent of their instruction by attending in-person classroom instruction. The School Corporation claimed and received foundation amount of state tuition support totaling \$47,851.50 that it was not entitled to.

Indiana Code 20-43-6-3 states in part:

"(a) A school corporation's basic tuition support for a state fiscal year is the amount determined under the applicable provision of this section.

(b) This subsection applies to a school corporation that does not have any students in the school corporation's current ADM for the year for whom, of the instructional services that the students receive from the school corporation, at least fifty percent (50%) is virtual instruction. The school corporation's basic tuition support for a state fiscal year is equal to the result using the following formula: . . .

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(Continued)

(c) This subsection applies to a school corporation that has students in the school corporation's current ADM for the year for whom, of the instructional services that the students receive from the school corporation, at least fifty percent (50%) is virtual instruction. The school corporation's basic tuition support for a state fiscal year is equal to the result using the following formula:

STEP ONE: Determine the total number of students in the school corporation's current ADM for the year for whom, of the instructional services that the students receive from the school corporation, at least fifty percent (50%) is virtual instruction. . . .

STEP FOUR: Determine the result of:

- (A) the STEP ONE amount; multiplied by
- (B) eighty-five percent (85%) of the foundation amount. . . ."

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any employee may be the personal obligation of the responsible employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 1)

We requested the School Corporation to reimburse \$596,580.23 to the State of Indiana for amounts that were inappropriately claimed and received for tuition support based on ineligible students reported for ADM. Partial payment in the amount of \$346,181.14 was sent to the IDOE by the School Corporation on May 25, 2021. (See Summary of Charges, page 24)

OVERPAYMENT OF SPECIAL EDUCATION GRANT SUPPORT

For the 2018-2019 and 2019-2020 school years, the School Corporation claimed and received additional funding for Special Education Grant Support based upon student counts from December 1. The student counts included students who were attending virtually; however, these students either did not have any log ins or the log ins were after the December 1 count date.

Below is a schedule of ineligible student counts and overpayments:

	<u>No. of Ineligible Students</u>	<u>Support Amount</u>
2018-2019 School Year	1	\$ 2,300
2019-2020 School Year	6	20,656
		<u>\$ 22,956</u>
Total Overpayment Special Education Grant Support		<u>\$ 22,956</u>

Indiana Code 20-43-7-1 states in part:

"(a) In addition to the amount a school corporation is entitled to receive in basic tuition support, each school corporation is entitled to receive a grant for special education programs for the state fiscal year. Subject to subsections (b) and (c), the amount of the special education grant is based on the count of eligible pupils enrolled in special education programs on December 1 of the preceding state fiscal year in:

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- (1) the school corporation; or
- (2) a transferee corporation. . . .

(d) In addition to the December 1 count, a second count of eligible pupils enrolled in special education programs shall be conducted. The count must be in the spring semester on a date fixed by the state board. The spring count of eligible students shall be used for informational purposes and is not used to calculate grant amounts under this chapter."

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any employee may be the personal obligation of the responsible employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 1)

We requested the School Corporation to reimburse \$22,956 to the State of Indiana for amounts that were inappropriately claimed and received for the Special Education Grant Support based on ineligible students reported for Special Education. Partial payment in the amount of \$20,656 was sent to the IDOE by the School Corporation on May 25, 2021. (See Summary of Charges, page 24)

OVERPAYMENT OF NON-ENGLISH SPEAKING PROGRAM (NESP) SUPPORT

For the 2019-2020 school year, the School Corporation received additional funding for the State Non-English Speaking Program (NESP). Student counts are submitted to the IDOE per the DOE-LM (English Learner and Immigration) report.

Based on inquiry with the IDOE, "the student has to be enrolled and expected to be in attendance for funding."

There were three virtual students with no log in activity for the 2019-2020 school year. The School Corporation received \$987.77 for these students; however, these students were not eligible as there was no evidence of attendance via log in activity.

IDOE instructions for reporting counts of NESP states in part:

"The DOE-LM provides a count of English learners to generate per-pupil funding for Title III (federal grant) and the Non-English Speaking Program (state grant) and a count of immigrant students for Title III Significant Immigrant Influx (federal grant). . . ."

Also, per the IDOE instructions for reporting counts of NESP it is indicated that, "Count Day is October 1, 2019. . . ."

Indiana Code 20-43-1-11.5 states:

"'Enrolled' means to be:

- (1) registered with a school corporation to attend educational programs offered by or through the school corporation; and
- (2) attending these educational programs or receiving educational services."

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Indiana Code 20-43-1-7.5 states: "Attending' means physical or virtual presence of a student with the expectation of continued services in the education programs for which the student is registered."

Funds misappropriated, diverted or unaccounted for through malfeasance, misfeasance, or non-feasance in office of any employee may be the personal obligation of the responsible employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 1)

We requested the School Corporation to reimburse \$987.77 to the State of Indiana for amounts that were inappropriately received based on ineligible students being included in Non-English Speaking Program. Payment in the amount of \$987.77 was sent to the IDOE by the School Corporation on May 25, 2021. (See Summary of Charges, page 24)

SPECIAL INVESTIGATION COSTS

The State of Indiana incurred costs due to the special investigation of the School Corporation.

Audit costs incurred because of poor records, nonexistent records, or any other inadequate book-keeping practices, or because of theft or a shortage may be the personal obligation of the responsible official or employee. (Accounting and Uniform Compliance Guidelines Manual for Indiana Public School Corporations, Chapter 1)

Pursuant to Indiana Code 5-11-1-27(m), "If the attorney general institutes civil proceedings related to this section or under IC 5-11-5-1, the attorney general shall seek, in addition to the recovery of any funds misappropriated, diverted, or unaccounted for, restitution of . . . costs incurred by the state board of accounts . . . in connection with the civil proceedings."

INSURANCE

The School Corporation obtained an errors and omissions insurance policy as noted below:

<u>Period</u>	<u>Coverage</u>
03-13-18 to 03-13-19	\$ 2,000,000
12-01-18 to 12-01-19	1,000,000
12-01-19 to 12-01-20	1,000,000

VIRTUAL EDUCATION PROGRAM

Establishment of Virtual Education School

For the 2019-2020 school year, the School Corporation did not establish a virtual school despite that as of January 6, 2020, 194 students were enrolled to receive their education virtually. Also, for the students who were attending either virtually or in a hybrid format, there were 85 non-duplicated students (combined from periods 1 and 2) who were receiving in excess of 50 percent of their instruction virtually.

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Indiana Code 20-19-9-4 states:

"If the lesser of at least:

- (1) one hundred (100) students of a school corporation; or
- (2) thirty percent (30%) of the total number of students enrolled in the school corporation;

receive at least fifty percent (50%) of instruction through a school corporation's virtual education program, the school corporation shall establish a dedicated virtual education school."

Mandatory Annual Onboarding

The School Corporation did not establish and implement an annual onboarding process and orientation as required by Indiana Code 20-19-9-3 for a virtual education program. The School Corporation provided a form letter that outlined the virtual attendance as follows:

"Attendance for this program is set by the parent and student through a contract with the principal, assistant principal and guidance counselor. Students must log in everyday to complete their assignments in order to receive credit for the class. . . ."

The School Corporation did not provide any of the contracts for the students or copies of the letters that were sent to the students.

Indiana Code 20-19-9-3(a) states:

"A school corporation shall establish and implement an annual onboarding process and orientation for a parent of a student and a student participating in a virtual education program. As part of the annual onboarding process and orientation, the school corporation must provide to a parent of a student:

- (1) the student engagement and attendance requirements or policies of the virtual education program; and
- (2) notice that a person who knowingly or intentionally deprives a dependent of education commits a violation under [IC 35-46-1-4](#)."

WITHDRAWAL OF HABITUAL TRUANTS

The School Corporation did not properly track attendance and absences; thus, the School Corporation could not determine if a virtual student should have been withdrawn from enrollment due to habitual truancy. The School Corporation recorded attendance for virtual students as absences due to the inability to record daily attendance and the lack of monitoring log ins.

For the 2019-2020 period 1 and 2 count period, students that did not have any log ins for the entire semester covered by each count period were recorded in the School Corporation's records as having zero days attended. These same students were reported to the IDOE as having attended one day with the remaining unattended days reported as "excused absences."

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For period 1 and period 2, 19 and 39 students, respectively, did not attend either virtually or in person for the entire semester. Combining periods 1 and 2, there were 14 students who did not attend for the entire school year.

According to school officials, students who attend the Rise Up Academy virtual school would not be scheduled to be in a building; therefore, they would record the student's attendance on the Real Time Report as an excused absence. (The Real Time report is used by the IDOE to monitor information including attendance and enrollment)

Indiana Code 20-19-9-5 states:

"A school corporation that operates a virtual education program must require that if a student who attends a school corporation's virtual education program accumulates the number of unexcused absences sufficient to result in the student's classification as a habitual truant (as described in [IC 20-20-8-8\(a\)\(17\)](#)), the student must be withdrawn from enrollment in the school corporation's virtual education program."

INTERNAL CONTROLS

Deficiency in Internal Controls - Segregation of Duties

There were several deficiencies in internal controls which contributed to the incorrect ADM reporting to the IDOE of students who attended virtually as follows:

- There was little to no oversight to ensure policies regarding onboarding and attendance requirements were developed, implemented, and documented.
- There was little to no oversight or review of the Learner Daily usage log reports to determine if virtual students were attending and/or completing any course work.
- There was not a system in place to ensure:
 - someone was following up with students with little to no log in activity.
 - documentation of any follow-up was maintained.
 - documentation was retained, and the results of the follow-up were adequately noted.
- There was little to no oversight of the compilation of the ADM information as it related to the Rise Up Academy. The only documentation provided to support the ADM counts submitted by the School Corporation were the lists of students. The lists of students were the same as those for in-person learning classrooms, which were signed by the teachers, and signed as approved the principals; however, for the Rise Up Academy, the lists of students who were enrolled to attend virtually were signed by the same individual as both the teacher and the principal.

The School Corporation had not established sufficient internal controls to allow for the maintenance of accurate and complete attendance records. Students attending virtually were recorded in the attendance reports as absent, even for those who were logging in.

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(Continued)

The failure to establish these internal controls allowed for officials to report and claim students with no log in activity and students after the count dates, as eligible for state tuition support.

The Indiana State Board of Accounts (SBOA) is required under Indiana Code 5-11-1-27(e) to define the acceptable minimum level of internal control standards. To provide clarifying guidance, the State Examiner compiled the standards contained in the manual, *Uniform Internal Control Standards for Indiana Political Subdivisions*. All political subdivisions subject to audit by SBOA are expected to adhere to these standards. The standards include adequate control activities. According to this manual:

"Control activities are the actions and tools established through policies and procedures that help to detect, prevent, or reduce the identified risks that interfere with the achievement of objectives. Detection activities are designed to identify unfavorable events in a timely manner whereas prevention activities are designed to deter the occurrence of an unfavorable event. Examples of these activities include reconciliations, authorizations, approval processes, performance reviews, and verification processes.

An integral part of the control activity component is segregation of duties. . . .

There is an expectation of segregation of duties. If compensating controls are necessary, documentation should exist to identify both the areas where segregation of duties are not feasible or practical and the compensating controls implemented to mitigate the risk. . . ."

RISE UP ACADEMY
SOUTH BEND COMMUNITY SCHOOL CORPORATION
EXIT CONFERENCE

The contents of this report were discussed on March 24, 2021, with Dr. C. Todd Cummings, Superintendent; Kareemah N. Fowler, Treasurer; John Anella, President of the School Board; Dr. Ruth Warren, School Board member; Leslie Wesley, School Board member; Stephanie Ball, School Board member; Rafi Nolan-Abrahamian, Chief Accountability Officer; and Brandon White, Chief Academic Officer.

church church hittle + antrim
ATTORNEYS AT LAW

OFFICIAL RESPONSE

Via Electronic Mail – officialresponse@sboa.in.gov

April 7, 2021

Indiana State Board of Accounts
302 West Washington St. Room E418
Indianapolis, IN 46204-2765

Re: South Bend Community School Corporation’s Official Response to
State Board of Accounts Results and Comments – Rise Up Academy

Dear Sir or Madam:

South Bend Community School Corporation (“School Corporation”) presents this official response to the “Results and Comments” from the audit of Rise Up Academy conducted by the Indiana State Board of Accounts (“SBOA”). Among other things, School Corporation asks SBOA to reconsider its classification of 59 students for purposes of payment of state tuition support based on Rise Up Academy being an “alternative education program” under Ind. Code § 20-30-8 and not a traditional school or virtual school. The School Corporation responds to each of the SBOA’s conclusions in same order as set forth in the proposed Results and Comments.

BACKGROUND

The nature of Rise Up Academy is fundamental to the way School Corporation has counted and classified students in the program. Rise Up Academy (the “Program”) is an *alternative education program*¹ established under Ind. Code § 20-30-8. Alternative education programs are governed by statutory requirements and rules adopted under Ind. Code § 4-22-2.² The Indiana Department of Education (“DOE”) has published FAQs about alternative education programs, including how they differ from other widely publicized programs.³ School Corporation is the program organizer⁴ and elected to establish the Program on its own.⁵

¹ See Ind. Code § 20-30-8-1

² See Ind. Code § 20-30-8-6

³ <https://www.doe.in.gov/sites/default/files/school-improvement/faq-final-2020-01-06.pdf>

⁴ See Ind. Code § 20-30-8-4

⁵ See Ind. Code § 20-30-8-5



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Notably, alternative education programs are designed to serve certain students in a different manner than the manner of instruction available in a traditional school setting. The Program is not generally available to School Corporation students. To apply to Rise Up, students must complete a transfer request form⁶ and meet certain statutory criteria.⁷ So a student will not be placed in the Program unless the student:

- intends to withdraw or has withdrawn from school before graduation;
- has been identified as a student who has failed to comply academically and would benefit from instruction offered in a manner different from the manner of instruction available in a traditional school;
- is a parent or an expectant parent and is unable to regularly attend the traditional school program;
- is employed in a job that is necessary to support the student or the student's immediate family and that interferes with a part of the student's instructional day; or
- is a disruptive student.

In addition, and as required by Indiana law, students must be enrolled or eligible to be admitted to grades 6 through 12 and the student's teachers and principal (in consultation with the student's parent or guardian) must determine that the student is likely to benefit academically, behaviorally, or both from participation in an alternative education program.⁸ School Corporation reviews determinations to place and retain students in the Program to ensure students in the Program meet the program criteria.

In sum, the Program—like other alternative education programs—serves students whose schedules may not allow for regular attendance or consistent engagement as expected under a traditional education program. School Corporation is committed to providing the flexibility and support necessary to allow students at Rise Up to succeed regardless of their life circumstances. This includes allowing students to attend school and complete school work outside the normal windows established for traditional education programs.

OVERPAYMENT OF STATE TUITION SUPPORT

As an initial matter, SBOA notes the definition of “virtual education program” under Ind. Code § 20-19-9-1. However, as described above, the Program is an “alternative education program” under Ind. Code § 20-30-8, to which the definition of “virtual

⁶ See http://riseup.sb.school/about_us/who_is_a_rise_up_academy_student

⁷ See Ind. Code § 20-30-8-10

⁸ *Id.*

education program” doesn’t apply. But even if it did, School Corporation notes that much if not most of the virtual learning being done in the Program is for recovery credit courses, which has the effect of specifically excluding the Program from the definition of “virtual education program.” Accordingly, the School Corporation correctly claimed and received 100 percent of the foundation amount of state tuition support for certain students who attended Rise Up Academy.

Background

In determining ADM, each pupil enrolled in Program is counted on a full-time equivalency basis when the pupil is registered and attending the Program, has legal settlement in a school corporation, and receives instructional services from School Corporation.⁹ The students reported by School Corporation are eligible pupils enrolled in School Corporation and School Corporation has the responsibility to educate the students in its schools without the payment of tuition.¹⁰

Count Period

School Corporation reports on DOE forms the number of full-time equivalent students enrolled in the Program; additional alternative program reports are submitted before July 1 of each year for the preceding school year.¹¹ Program reporting is based upon applicable statutes and published DOE guidance for alternative education programs.

While SBOA may have a different interpretation of how School Corporation calculated and reported students enrolled in the Program, School Corporation would ask SBOA consider a methodology that recognizes students in alternative-education programs do not necessarily conduct or complete their studies within the time frames or on the schedules set for traditional educational programs. Students in alternative programs have jobs, pregnancies, or other life circumstances that hinder their ability to engage in their studies on a traditional schedule. And alternative education programs are often established to allow students to engage with the program on their schedule – not the preset schedule of a traditional education program.

While SBOA’s methodology does recognize some difference between student learning in a traditional program versus an alternative program, School Corporation proposes a methodology that more closely aligns with the realities of the Program, yet is consistent

⁹ See Ind. Code § 20-43-4-6

¹⁰ See Ind. Code § 20-43-4-1

¹¹ See Ind. Code § 20-30-8-15

with the requirement that students must be registered and attending. School Corporation's methodology is based on the following:

- a) First-Count Period. Students who demonstrated in-person or virtual participation during the first marking period (out of four) would be counted as part of the first-count date. It appears in-person attendance was not factored into the SBOA's analysis of virtual login activity, despite the fact that students will frequently switch between learning formats from one marking period to another. This methodology would capture students who participated in the program regardless of how they participated. It would also acknowledge that meaningful participation toward graduation may not follow a traditional schedule.
- b) Second-Count Period. Students who demonstrated in-person or virtual participation after the first marking period would be included in the second-count period. School Corporation believes it is not reasonable to exclude and withdraw students demonstrating active participation in October, November, and December who may have stopped participating in the month prior to the February count. Moreover, the corporation believes such a decision rule would limit the probability of graduation for the district's highest needs high school student population.

No Log in Activity for Virtual Students on ADM Count Date

Usage-log reports generated from Edmentum may be one measure, but not all measures of eligible pupils. DOE notes alternative education programs are designed to have flexible school schedules with community involvement and support.¹² Students participating in school flex programs attend school for 3 hours of instructional time per school day.¹³

After a student enrolls in the Program, each parent receives a letter from the principal with instructions which includes the following information:

Students assigned to this program will be able to come to Rise Up Academy for teacher support Monday through Thursday, between the hours of 1:30 pm to 3:45 pm. Attendance for this program is set by the parent and student through a contract with the principal, assistant principal and guidance counselor. Students must log in everyday to complete their assignments in order to receive credit for

¹² See <https://www.doe.in.gov/school-improvement/alternative-education>

¹³ See Ind. Code § 20-30-2-2.2

the class. Students who are using PLATO should be just as committed to their assignments and curriculum expectations as they would be in the conventional classroom.

Students are also allowed and encouraged to contact the assistant principal for extra help with assignments and tutoring. That time may not be reflected in “log in” activity reports viewed by SBOA.

School Corporation is providing additional data (which can be located in a shared drive) and asks SBOA consider the supplemental information in these reports. Each student reported by School Corporation was “enrolled” because each student was registered with School Corporation to attend educational programs offered by or through School Corporation and was attending these educational programs or receiving educational services. The Program was developed for students identified as failing to comply academically and benefiting from instruction offered in a manner different from the manner of instruction available in a traditional school. These programs can be used to target students who are a parent or an expectant parent and are unable to regularly attend the traditional school program. The Program also can benefit employed students who must work to support themselves or their family. School Corporation asks SBOA to reconsider the students who were attending in a physical or virtual presence with the expectation of continued services in the education programs for which the student was registered.

Log-In Activity for Virtual Students and Hybrid Students

Basic tuition support for a state fiscal year is the amount determined under the applicable provision of Ind. Code § 20-43-6-3. School Corporation agrees its basic tuition support for a state fiscal year is equal to the result using the formulas in that statute. School Corporation is providing additional data and asks SBOA reconsider this information. Each student reported by School Corporation was enrolled and the students were registered with School Corporation to attend educational programs offered by or through School Corporation and attending these educational programs or receiving educational services. Students are also allowed and encouraged to contact the assistant principal for extra help with assignments and tutoring. That time may not be reflected in “log in” activity reports viewed by SBOA.

OVERPAYMENT OF SPECIAL EDUCATION GRANT SUPPORT

In addition to basic tuition support, School Corporation is entitled to receive a grant for special education programs for the state fiscal year. The amount of the special education grant is based on the count of eligible pupils enrolled in special education programs on

December 1 of the preceding state fiscal year in: the school corporation; or a transferee corporation.¹⁴ Corporation is providing additional data and asks SBOA consider these reports. Each student reported by School Corporation was enrolled and the students were registered with School Corporation to attend special educational programs offered by or through School Corporation and attending these educational programs or receiving educational services. For these reasons, School Corporation requests reconsideration based upon this new, additional data.

OVERPAYMENT OF NON-ENGLISH SPEAKING PROGRAM (NESP) SUPPORT

The School Corporation will reimburse \$987.77 to the State of Indiana for amounts received and related to certain students included in Non-English Speaking Program.

SPECIAL INVESTIGATION COSTS

School Corporation believes special investigation costs are not appropriate here, as there is not evidence suggesting audit costs were incurred because of poor records, nonexistent records, or any other inadequate bookkeeping practices, or because of theft or a shortage. School Corporation is not aware of any evidence showing any employee should be personally liable or obligated to pay such amounts. Such a position also conflicts with School Corporation's indemnity obligations and the Indiana Tort Immunity Statute. As shown in the attached Program records, School Corporation believes SBOA should reclassify certain students and School Corporation is willing to accept remaining students should no longer be included in counts.

INSURANCE

As suggested by SBOA, School Corporation has contacted its insurance broker to solicit the insurance broker's opinion as to whether any insurance carrier insuring School Corporation might offer coverage or reimbursement for amounts SBOA is seeking.

VIRTUAL EDUCATION PROGRAM

In accordance with Ind. Code § 20-30-8, School established the Program as an alternative education program¹⁵. The Program is not a "virtual education program" and School Corporation elected to establish the Program pursuant to a different statute.¹⁶ The Program qualifies as an alternative education program as it is an educational

¹⁴ See Ind. Code § 20-43-7-1

¹⁵ See Ind. Code § 20-30-8-1

¹⁶ See Ind. Code § 20-30-8-5

program for eligible students instructing eligible students in a different manner than the manner of instruction available in a traditional school setting. It complies with rules adopted under § 4-22-2¹⁷ and DOE guidelines for alternative education programs. School Corporation also reports the number of full-time equivalent students who enrolled in the Program to DOE on forms specified by DOE for the purpose of tracking enrollment in alternative education programs. Reports are submitted before July 1 of each year for the preceding school year.¹⁸

Additionally, School Corporation established and implemented an annual onboarding process and orientation for parents and students participating in the Program. Students were required to apply and complete a request form to participate in the Program.¹⁹ As part of the onboarding process and orientation, School Corporation provided to parents and students engagement and attendance requirements or policies of the Program.²⁰ Before a student could participate in the Program students completed an onboarding process and orientation established by School Corporation.²¹ Students continued to be subject to published policies applying to all students including but not limited to Policy 2370: Education Options; Policy 5200: Attendance, Policy; and Administrative Guideline 5200: Student Attendance.²² Best Practices published by DOE are utilized by School Corporation as well.²³

WITHDRAWAL OF HABITUAL TRUANTS

Alternative education is designed to meet the needs of at-risk students who are not succeeding in the traditional setting. Students enrolled in the Program are provided with a variety of options that can lead to graduation and are supported by services essential to success.²⁴ An alternative education program is appropriate for these students. Services required by the student and the student's immediate family are designed to meet the educational goals and behavioral goals for that student. School Corporation respectfully contends withdrawal of habitual truants would defeat and thwart the purpose of alternative education programs created by the legislature.²⁵

INTERNAL CONTROLS

¹⁷ See Ind. Code § 20-30-8-6

¹⁸ See Ind. Code § 20-30-8-15

¹⁹ See http://riseup.sb.school/about_us/who_is_a_rise_up_academy_student_

²⁰ See <http://riseup.sb.school/parents>

²¹ See http://riseup.sb.school/guidance/web-_based_learning

²² <https://go.boarddocs.com/in/sbcsc/Board.nsf/Public?open&id=policies>

²³ <https://www.doe.in.gov/school-improvement/alternative-education>

²⁴ See <https://www.doe.in.gov/school-improvement/alternative-education>

²⁵ See Ind. Code § 20-30-8-11

School Corporation disagrees that a cursory, initial audit of ADM records has revealed any severe deficiencies present in its internal controls. However, School Corporation will continue to work with SBOA to ensure newer internal control standards and procedures are developed and implemented to promote government accountability and transparency. School Corporation will also require personnel to receive SBOA developed or designated approved training materials. School Corporation will immediately implement mandatory policies and procedures as recommended by SBOA and in compliance with applicable laws.

Prior to the start of the audit, School Corporation had already created measures to improve programming and supports at the Program for 2020-21 school year. Initial audit requests led School Corporation to develop additional measures to improve reporting, oversight, and compliance. These measures include:

- The Program used a grant to hire two new full-time positions (e.g., data coach and home liaison). These positions are tasked with monitoring student progress and outreach to students and families. The new positions have been critical in monitoring and promoting virtual student progress throughout the pandemic.
- A full-time social worker for Program students was hired for the 2020-21 school year and tasked with providing necessary social and emotional structures and supports.
- Staff conduct daily monitoring and reporting of students' virtual participation and attendance within the School Corporation's Student Information System.
- While School Corporation believes its reporting was justified and consistent with Indiana statutes, staff has conducted and will continue to conduct additional audits to remove from reporting students not participating prior to Fall and Spring count dates, consistent with DOE guidelines.
- School Corporation has limited transfers from traditional SBCSC high schools to the Program to ensure necessary staffing and support for students enrolled in the Program.

CONCLUSION

For the reasons explained above, the School Corporation requests SBOA consider the supplemental reports and information and reconsider the conclusions contained in the Results and Comments. We welcome the opportunity to meet with you to review the data and our reasoning.

church church hittle + antrim
ATTORNEYS AT LAW

Sincerely,

Jonathan Becker

Jon Becker

Church Church Hittle Antrim

On behalf of South Bend Community School Corporation

Cc: Michelle Janosky - Mjanosky@sboafe.in.gov
Kristin Campbell - Kcampbell@sboafe.in.gov



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A Partnership of Professional Corporations

RISE UP ACADEMY
SOUTH BEND COMMUNITY SCHOOL CORPORATION
SUMMARY OF CHARGES
(Due to Malfeasance, Misfeasance, or Nonfeasance)

	<u>Charges</u>	<u>Credits</u>	<u>Balance Due</u>
South Bend Community School Corporation:			
Overpayment of State Tuition Support, pages 3 through 8	\$ 596,580.23	\$ 346,181.14	\$ 250,399.09
Overpayment of Special Education Grant Support, pages 8 and 9	22,956.00	20,656.00	2,300.00
Overpayment of Non-English Speaking Program (NESP) Support, pages 9 and 10	<u>987.77</u>	<u>987.77</u>	<u>-</u>
Totals	<u>\$ 620,524.00</u>	<u>\$ 367,824.91</u>	<u>\$ 252,699.09</u>

This report was forwarded to the Office of the Indiana Attorney General.

AFFIDAVIT

STATE OF INDIANA)
)
PORTER COUNTY)

We, Kristin Campbell and Michelle M. Janosky, Field Examiners, being duly sworn on our oaths, state that the foregoing report based on the official records of South Bend Community School Corporation, St. Joseph County, Indiana, for the period from July 1, 2018 to June 30, 2020, is true and correct to the best of our knowledge and belief.

Kristin Campbell

Michelle M. Janosky
Field Examiners

Subscribed and sworn to before me this 26th day of April, 2021.

Kathryn A. Harp
Notary Public

My Commission Expires: January 24, 2026

County of Residence: PORTER

