



INDIANA STATE BOARD OF EDUCATION

To: Indiana State Board of Education
From: Chad E. Ranney, General Counsel
Date: May 5, 2021
RE: Initiate Rulemaking and Approval of Proposed Rule – Performance Based Accreditation

MEMORANDUM

Recommendation(s): (1) Initiate rulemaking for purposes of establishing a performance-based accreditation system for accrediting schools in Indiana; and (2) approve the Proposed Rule (attached) concerning the establishment of a performance-based accreditation system.

During the 2020 legislative session, the Indiana General Assembly passed legislation that (1) repealed the existing statutory framework for accrediting schools in Indiana; and (2) tasked the Indiana State Board of Education (“Board”) with establishing a new performance-based accreditation system. *See* P.L.92-2020, SEC.69. Under the provisions of P.L.92-2020, SEC.110, the Board’s existing school accreditation rules found at 511 IAC 6.1 are set to expire on July 1, 2021.

Once the recommendations in this memo are approved, Indiana Department of Education (“Department”) Staff will proceed with the rulemaking process outlined in IC 4-22-2 on the Board’s behalf. The rulemaking process shall proceed as follows:

- Department staff will seek a waiver from the Regulatory Moratorium as required by Financial Management Circular 2015-1 and Executive Order 13-03.
- Department staff will file all required paperwork and notices with the Legislative Services Agency.
- The Proposed Rule will be published in the Indiana Register.
- A public hearing will be conducted – comments will be accepted via email and in-person.
- All public comments and suggested edits will be presented to the Board for the Board’s consideration.
- The Board will adopt a final rule.

ARTICLE XX. SCHOOL ACCREDITATION

Rule 1. Applicability

511 IAC X-1-1 Applicability

Authority: IC 20-19-2-8; IC 20-31-4.1-10

Affected:

Sec. 1. This article applies to the following:

- (1) School corporations.
- (2) Public schools, including charter schools.
- (2) State accredited nonpublic schools that voluntarily become accredited under IC 20-31-4.1.

Rule 2. Definitions

511 IAC X-2-1 Definitions

Authority: IC 20-19-2-8; IC 20-31-4.1-10

Affected:

Sec. 2(a) “Alternative nonpublic school” means a nonpublic school that enters into a contract with a school corporation to provide alternative education services for students who have:

- (1) dropped out of high school;
- (2) been expelled; or
- (3) been sent to the nonpublic school due to the students’ lack of success in the public school environment.
- (b) “Authorizer” has the meaning set forth in IC 20-24-1-2.5.
- (c) “Charter school” has the meaning set forth in IC 20-24-1-4.
- (d) “Department” has the meaning set forth in IC 20-18-2-3.
- (e) “Governing body” has the meaning set forth in IC 20-18-2-5.
- (f) “Legal standards” means the statutory and regulatory requirements in Title 20 or 511 IAC for a governing body, school corporation, public school, charter school, or nonpublic school.
- (g) “Nonpublic school” has the meaning set forth in IC 20-18-2-18.7.
- (h) “Principal” has the meaning set forth in IC 20-18-2-14.
- (i) “Public school” has the meaning set forth in IC 20-18-2-15.
- (k) “School corporation” has the meaning set forth in IC 20-18-2-16.
- (l) “State board” has the meaning set forth in IC 20-18-2-19.
- (m) “Superintendent” has the meaning set forth in IC 20-18-2-21.
- (n) “Teacher” has the meaning set forth in IC 20-18-2-22.
- (o) “Third party accreditation organization” means an independent organization that operates nationally or regionally with established standards that must be satisfied for a school or school corporation to become a member of the organization.

Rule 3. Performance Based Accreditation System

511 IAC X-3-1 Public school accreditation; Public school legal standards

Authority: IC 20-19-2-8; IC 20-31-4.1-10

Affected:

Sec. 1. (a) This section applies to a public school.

(b) The state board shall accredit a public school that:

(1) complies with the applicable statutes in Title 20 that have not been waived in accordance with section 6 of this rule;

(2) complies with the applicable regulations in 511 IAC that have not been waived in accordance with section 6 of this rule;

(3) is part of a school corporation that complies with the applicable statutes in Title 20 that have not been waived in accordance with section 6 of this rule;

(4) is part of a school corporation that complies with the applicable regulations in 511 IAC that have not been waived in accordance with section 6 of this rule;

(3) employs only teachers, administrators, and student services specialists properly licensed under 511 IAC 10;

(4) submits the required data reports to the department in an accurate and timely manner; and

(5) carries out systematic instruction for more than ten (10) students in any of kindergarten through grade 12 to meet compulsory attendance law requirements under IC 20-33-2.

(c) A public school shall hold provisional accreditation during its first year of operation.

A public school shall hold provisional accreditation until it demonstrates full compliance with the legal standards outlined in subsection (b) of this section.

(d) A public school shall hold accreditation in five (5) year terms. The accreditation of a public school ceases upon closure of the public school.

(e) The department shall conduct a review of public school compliance with legal standards on a schedule determined by the department. The department shall provide the findings of its review to the state board.

(1) For a public school found to be noncompliant with more than one half (1/2) of the legal standards outlined in subsection (b) of this section:

(A) The state board shall issue a notice of noncompliance to the superintendent of the school corporation.

(B) Upon receipt of notice from the state board, the superintendent shall notify the governing body of the school corporation of the noncompliance findings.

(C) The governing body of the school corporation shall develop a plan to ensure compliance with all legal standards. The plan shall be submitted to the department.

(2) For a public school found to be noncompliant with more than one half (1/2) of the legal standards outlined in subsection (b) of this section for two (2) or more consecutive school years:

(A) The state board shall issue a notice of noncompliance to the superintendent of the school corporation.

(B) Upon receipt of notice from the state board, the superintendent shall notify the governing body of the school corporation of the noncompliance findings and further actions taken by the state board.

(C) The governing body of the school corporation shall provide notice to the public of the noncompliance findings. The notice shall be published under IC 5-3-1.

(f) The state board reserves the right to revoke the accreditation of a public school or school corporation due to egregious noncompliance with the legal standards outlined in subsection (b). Revocation proceedings shall be conducted pursuant to IC 4-21.5.

511 IAC X-3-2 Nonpublic school accreditation; Nonpublic school legal standards

Authority: IC 20-19-2-8; IC 20-31-4.1-10

Affected:

Sec. 2. (a) This section applies to a nonpublic school.

(b) The state board may accredit a nonpublic school that:

(1) voluntarily seeks accreditation by the state board;

(2) complies with the applicable statutes in Title 20 that have not been waived in accordance with section 6 of this rule;

(3) complies with the applicable regulations in 511 IAC that have not been waived in accordance with section 6 of this rule;

(4) employs at least one (1) staff member properly licensed under 511 IAC 10 for purposes of the administration of statewide assessments;

(5) submits the required data reports to the department in an accurate and timely manner;

(6) carries out systematic instruction for more than ten (10) students in any of kindergarten through grade 12 to meet compulsory attendance law requirements under IC 20-33-2; and

(7) is recommended for accreditation by the Department.

(c) Notwithstanding subdivision (b)(4), the legal standards outlined in subsection (b) shall be waived for a nonpublic alternative school that voluntarily seeks accreditation by the state board to accommodate the nonpublic alternative school's program and student population.

(d) A nonpublic school shall hold provisional accreditation during its first year of operation. A nonpublic school shall hold provisional accreditation until it demonstrates full compliance with the legal standards outlined in subsection (b) of this section. A nonpublic school that holds provisional accreditation shall be considered as accredited for purposes of IC 20-51-1-4.7.

(1) A nonpublic school holding provisional accreditation found to be noncompliant with one or more legal standards shall have one month to rectify the finding of noncompliance.

(2) A nonpublic school holding provisional accreditation that fails to rectify a finding of noncompliance with one or more legal standards by the stated deadline forfeits its accreditation status. The state board shall revoke accreditation at the end of the active school year.

(e) A nonpublic school shall hold accreditation in five (5) year terms. The accreditation of a nonpublic school ceases:

(1) upon closure of the nonpublic school;

(2) upon revocation by the state board; or

(3) upon voluntary revocation of accreditation by the nonpublic school.

(f) The department shall conduct a review of nonpublic school compliance with legal standards on a schedule determined by the department. The department shall provide the findings of its review to the state board.

(1) For a nonpublic school found to be noncompliant with a more than one half (1/2) of the legal standards outlined in subsection (b) of this section:

(A) The state board shall issue a notice of noncompliance to the school leader of the nonpublic school.

(B) Upon receipt of notice from the state board, the school leader shall develop a plan to ensure compliance with all legal standards. The plan shall be submitted to the department.

(2) For a nonpublic school found to be noncompliant with more than one half (1/2) of the legal standards outlined in subsection (b) of this section for two (2) or more consecutive school years:

(A) The state board shall issue a notice of noncompliance to the school leader of the nonpublic school.

(B) The school leader of the nonpublic school shall provide notice to the parents of students enrolled with the nonpublic school of the noncompliance findings.

(g) The state board reserves the right to revoke the accreditation of a nonpublic school due to egregious noncompliance with the legal standards outlined in subsection (b). Revocation proceedings shall be conducted pursuant to IC 4-21.5.

511 IAC X-3-3 Charter school accreditation; Charter school legal standards

Authority: IC 20-19-2-8; IC 20-31-4.1-10

Affected:

Sec. 3. (a) This section applies to a charter school.

(b) The state board shall accredit a charter school that:

(1) complies with the requirements of IC 20-24;

(2) complies with the applicable statutes in Title 20 have not been waived in accordance with section 6 of this rule;

- (3) complies with the applicable regulations in 511 IAC have not been waived in accordance with section 6 of this rule;
- (4) submits the required data reports to the department in an accurate and timely manner; and
- (5) carries out systematic instruction for more than ten (10) students in any of kindergarten through grade 12 to meet compulsory attendance law requirements under IC 20-33-2.

(c) A charter school shall hold provisional accreditation during its first year of operation. A charter school shall hold provisional accreditation until it demonstrates full compliance with the legal standards outlined in subsection (b) of this section.

(d) A charter school shall hold accreditation equal to the term of the charter agreement.

The accreditation of a charter school ceases

- (1) upon closure of the charter school; or
- (2) upon revocation of the charter agreement by the authorizer.

(e) The authorizer of a charter school is responsible for ensuring that the charter school is in compliance with all applicable legal standards for accreditation purposes.

(f) The authorizer of a charter school shall determine the consequences to impose if a charter school is found to be noncompliant with more than one half (1/2) of the legal standards outlined in subsection (b) of this section.

511 IAC X-3-6 Waiver of statutory and regulatory requirements

Authority: IC 20-19-2-8; IC 20-31-4.1-10

Affected:

Sec. 6. (a) Subject to IC 20-31-4.1-4(a) and IC 20-31-4.1-7, the state board may permit an accredited school or group of accredited schools to waive compliance with any provision of Title 20, 511 IAC, or Title 20 and 511 IAC in order to do one (1) or more of the following:

- (1) improve student performance and outcomes.
- (2) Offer the applicant flexibility in the administration of educational programs or improve the efficiency of school operations.
- (3) Promote innovative educational approaches to student learning.
- (4) Advance the mission or purpose of the accredited school or group of accredited school.

(b) In order to waive compliance, an accredited school or group of accredited schools must submit a timely application to the state board. The application must include the following:

- (1) A list of one (1) or more provisions in Title 20, 511 IAC, or Title 20 and 511 IAC that the accredited school or group of accredited schools is requesting that the state board waive.
- (2) The following information:
 - (A) The specific goal or outcome or goals or outcomes that the accredited school or group of accredited schools intends to achieve by waiving the provisions described in subdivision (1).

(B) How the specific goals or outcomes described in clause (A) are likely to be achieved by waiving compliance with the provisions described in subdivision (1).

(3) For an application submitted by:

(A) the governing body of a school corporation, a copy of the resolution adopted by the governing body approving the submission of the application;

(B) a charter school, written authorization by the charter school organizer approving the submission of the application; or

(C) a nonpublic school, written authorization by the person or agency in active charge and management of the nonpublic school approving the submission of the application.

(4) The requested timeline for duration of the waiver request, not to exceed four (4) school years.

(c) The state board may approve an application to waive compliance with provisions of Title 20, 511 IAC, or Title 20 and 511 IAC only if the waiver request satisfies all of the following:

(1) The waiver request is submitted in a timely manner.

(2) The waiver request includes all required components as outlined in subsection (b) of this section.

(3) The waiver request is related to a specific goal or outcome of the accredited school or group of accredited schools.

(4) The waiver request includes performance benchmarks and data that will be used to determine whether the specific goal or outcome of the accredited school or group of accredited schools has been achieved by waiving compliance with the requested provisions of Title 20, 511 IAC, or Title 20 and 511 IAC.

(4) The waiver request will likely:

(A) improve student performance and outcomes;

(B) offer the applicant flexibility in the administration of educational programs or improve the efficiency of school operations;

(C) promote innovative educational approaches to student learning; or

(D) advance the mission or purpose of the school or group of schools.

(d) Upon approval, the state board shall determine the duration of the waiver for an accredited school or group of accredited schools. At the end of the waiver term, the state board shall review the established performance benchmarks and data to determine whether the specific goal or outcome of the accredited school or group of accredited schools has been achieved by waiving compliance with the requested provisions of Title 20, 511 IAC, or Title 20 and 511 IAC.

(1) If the accredited school or group of accredited schools achieved its specific goal or outcome, the state board may renew the application to waive compliance with provisions of Title 20, 511 IAC, or Title 20 and 511 IAC. The state board may require the accredited school or group of accredited schools to modify the specific goal or outcome to be achieved by waiving compliance with the requested provisions of Title 20, 511 IAC, or Title 20 and 511 IAC, as needed.

(2) If the accredited school or group of accredited schools did not achieve its specific goal or outcome, the state board may not renew the application to waive compliance with

provisions of Title 20, 511 IAC, or Title 20 and 511 IAC. Beginning with the school year immediately following the determination by the state board, the accredited school or group of accredited schools shall comply with all provisions of Title 20, 511 IAC, or Title 20 and 511 IAC that were previously waived.

(e) Nothing in this section precludes an accredited school or group of accredited schools from submitting an application to waive compliance with any provision of Title 20, 511 IAC, or Title 20 and 511 IAC subsequent to a denial of flexibility or revocation of flexibility by the state board.

Rule 4. Third Party Accreditation

511 IAC XX-4-1 Third party accreditation of nonpublic schools

Authority: IC 20-19-2-8; IC 20-31-4.1-10

Affected:

Sec. 1. (a) A nonpublic school may be accredited by a third party accreditation organization that is recognized by the state board pursuant to section 2 of this rule.

(b) A nonpublic school that is accredited by a third party accreditation organization that is recognized by the state board pursuant to section 2 of this rule is not considered to hold performance based accreditation pursuant to IC 20-31-4.1 or this article.

511 IAC XX-4-2 Recognition of third party accreditation organizations

Authority: IC 20-19-2-8; IC 20-31-4.1-10

Affected:

Sec. 2. (a) A third party accreditation organization may submit a notice of intent and petition for recognition by the state board based on a submission cycle determined by the state board.

(b) The state board shall review a petition to seek recognition if the third party accreditation organization submitted its petition in a timely manner. Each petition for recognition shall be reviewed based on criteria established by the state board to evaluate the operational standards and procedures, and performance expectations of the third party accreditation organization.

(c) The state board shall recognize a third party accreditation organization that is determined to satisfy the criteria established by the state board for recognition.

(d) The state board shall provide notice to a third party accreditation organization that is determined to have areas of deficiency in the petition and provide the third party accreditation organization the opportunity to address the identified areas of deficiency. The state board may not recognize a third party accreditation organization that does not sufficiently address the identified areas of deficiency.

(e) Nothing in this section precludes a third party accreditation organization from submitting a notice of intent and petition for recognition in a submission cycle subsequent to a receipt of denial of recognition by the state board.

Rule 5. School Safety

511 IAC XX-5-1 General requirements

Authority: IC 20-19-2-8; IC 20-31-4-17

Affected: IC 20-31-4-1

Sec. 1. Each public school, nonpublic school, and charter school shall comply with the rules of:

- (1) the fire prevention and building safety commission;
- (2) the state department of health; and
- (3) the Indiana occupational safety and health administration.

511 IAC XX-5-2 Safe schools and emergency preparedness planning

Authority: IC 20-19-2-8; IC 20-31-4-17

Affected: IC 20-31-4-1

Sec. 2. (a) Each school corporation shall, in consultation with local public safety agencies, develop a written emergency preparedness plan for the school corporation and each school in the corporation. An emergency preparedness plan shall, at a minimum, contain the following:

- (1) Appropriate warning systems.
- (2) Procedures for notifying other agencies and organizations.
- (3) Posting of evacuation routes.
- (4) Emergency preparedness instruction for staff and students.
- (5) Public information procedures.
- (6) Steps that will be taken prior to a decision to evacuate buildings or dismiss classes.
- (7) Provisions to protect the safety and well-being of staff, students, and the public in

case of:

- (A) fire;
- (B) natural disaster, such as tornado, flood, or earthquake;
- (C) adverse weather conditions, such as winter storms or extreme heat;
- (D) nuclear contamination, such as power plant or transport vehicle spills;
- (E) exposure to chemicals, such as pesticides, industrial spills and contaminants, laboratory chemicals, and cleaning agents; and
- (F) manmade occurrences, such as student disturbance, weapon, weapon of mass destruction, contamination of water supply or air supply, hostage, and kidnaping incidents.

(b) Within sixty (60) days after the beginning date of each school year, the superintendent shall certify to the department that the emergency preparedness plans for the school corporation and each school in the school corporation have been reviewed and revised, if necessary. Within sixty (60) days of opening a new or significantly remodeled school, the superintendent shall certify to the department that a new plan has been developed or that the existing plan has been reviewed and revised, if necessary.

- (c) Emergency preparedness plans shall be available for inspection by the department.