



MEMORANDUM

TO: State Board of Education
FROM: Anna Shults, John Wolf, Zach Foughty
DATE: August 20, 2012
SUBJECT: Proposed rule language to modify Reading Plan, 511 IAC 6.2-3.1

At the June 6, 2012, SBOE meeting, the SBOE approved the initiation of rulemaking to reflect changes from the 2012 legislative session, which affected the application of the Reading Plan Rule for Charter Schools. The SBOE, at its August 1, 2012, meeting approved additional revisions to the Reading Plan rule to further clarify certain aspects of the rule. The Department requests approval of the proposed rule language.

The proposed language:

- ❖ Addresses the 2012 legislative changes as the Plan applies to Charter Schools;
- ❖ Provides additional clarification and guidance regarding:
 - students with IEPs and ILPs
 - exemptions from retention
 - the meaning of retention
 - the meaning of elementary school as including any school with a section of grades K,1,2, or 3; and
- ❖ Provides consequences for schools who fail to submit the required Reading Plan under the rule.

Once the proposed rule is published, a public hearing will be conducted and public comment sought.

SECTION 1. 511 IAC 6.2-3.1-1 IS AMENDED TO READ AS FOLLOWS:

Rule 3.1. Reading Plan

511 IAC 6.2-3.1-1 Definitions

Authority: IC 20-19-2-8; IC 20-32-8.5-4

Affected: IC 20-31; IC 20-32-8.5

Sec. 1. The following definitions apply throughout this rule:

- (1) "Core reading program" means a scientifically-based program that provides a scope and sequence that scaffolds instruction in accordance with state academic standards.
- (2) "Dedicated time" means that scientifically-based reading research is the primary basis for the instruction provided during that time period.
- (3) "Differentiated instruction" means the process of matching instruction to meet the different needs of students.
- (4) "English learner" means a student whose native language is not English and who ~~is classified as a Level 1-4 limited English~~ **has not achieved a Level 5 fluent English proficient based on the LAS Links English proficiency assessment in two consecutive years.**
- (5) "Individual learning plan" means the record keeping document developed for each English learner, outlining the student's level of English proficiency and instructional and assessment adaptations.
- (6) "IREAD-3" is the reading test approved by the board to test reading proficiency.
- (7) "Job-embedded time" means professional development that occurs during the course of the work day.
- (8) "Parent-guided home reading program" means a guidebook on how to promote reading at home.
- (9) "Principles of response to instruction" means the systemic process of meeting the educational needs of all students through the following:
 - (A) Professional accountability to ensure delivery of scientific research-based core curriculum and instruction.
 - (B) Ongoing monitoring of student data to assess instruction effectiveness.
 - (C) Determination and delivery of targeted and intensive individualized student supports.

Response to instruction guidance is available at the department's website.

- (10) "Reading deficiency" means reading at a level not equivalent to grade-level reading proficiency.
- (11) "Reading instruction" means instruction on the five (5) components of scientifically-based reading, which includes the following:
 - (A) Phonics.
 - (B) Phonemic awareness.
 - (C) Fluency.
 - (D) Vocabulary.
 - (E) Comprehension.
- (12) **"Retention" means that a student shall have access to third-grade literacy instruction, shall be reported to the department as a third-grade student, and shall participate in state assessments at the third-grade level.**
- ~~(13)~~ "Scaffolding" means instruction that builds on a student's prior knowledge and internalizes new information.
- ~~(14)~~ "Scientifically-based reading research" means research that includes the following:
 - (A) Scientific methods with an emphasis on experimental control or comparison groups.
 - (B) Replication of results, using multiple studies by different investigators.
 - (C) Ability to generalize results from one (1) sample to other children in the general population.
 - (D) Fulfillment of rigorous standards with an emphasis on peer review.
 - (E) Consistency of results between studies.

(Indiana State Board of Education; 511 IAC 6.2-3.1-1; filed Mar 25, 2011, 10:26 a.m.: 20110420-IR-511100635FRA)

SECTION 2. 511 IAC 6.2-3.1-2 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.2-3.1-2 Applicability

Authority: IC 20-19-2-8; IC 20-32-8.5-4

Affected: IC 20-24-8-5; IC 20-26-15; IC 20-31; IC 20-32-8; IC 20-32-8.5; IC 20-35-5; IC 36-1-7

Sec. 2. (a) This rule applies to:

- (1) elementary schools, including charter schools as set forth under IC 20-24-8-5(18) **when application to charter schools is specifically noted**, ~~with exemptions for charter schools noted;~~

- (2) elementary schools organized by an interlocal agreement under IC 36-1-7;
 - (3) special education cooperative organized under IC 20-35-5; and
 - (4) accredited nonpublic school under IC 20-26-15 or 511 IAC 6.1-1-1.
- (b) A school is an elementary school under this rule if any students in the school attend kindergarten, first, second, or third grade.
- (c) Each school shall submit the details of a reading plan that includes components set forth in section 3 of this rule to the department on the June 30 before the school year of implementation.
- (d) If an entity under subsection (a) receives funding under IC 20-32-8, the entity shall prioritize that funding on resources for students who have a reading deficiency in grades 1 through 3. *(Indiana State Board of Education; 511 IAC 6.2-3.1-2; filed Mar 25, 2011, 10:26 a.m.: 20110420-IR-511100635FRA; filed Mar 21, 2012, 11:28 a.m.: 20120418-IR-511110561FRA)*

SECTION 3. 511 IAC 6.2-3.1-3 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.2-3.1-3 Reading plan; components

Authority: IC 20-19-2-8; IC 20-32-8.5-4

Affected: IC 20-20-31; IC 20-31; IC 20-32-8.5

Sec. 3. (a) A reading plan includes the following:

- (1) Membership of the reading leadership team.
- (2) Measurable student achievement goals for each grade level.
- (3) Reading instruction in accordance with section 4 of this rule.
- (4) Details of the manner in which the school plans to use formative and summative assessments for the following:
 - ~~(A) Students in the school kindergarten through grade 2 that measure the following:~~
 - (A*i*) Phonemic awareness.
 - (B*ii*) Phonics.
 - (C*iii*) Fluency.
 - (D*iv*) Vocabulary.
 - (E*v*) Comprehension.
 - ~~(B) Students in grade 3 and higher that measure vocabulary and comprehension in relation to content knowledge.~~
- (5) Intervention in accordance with section 5 of this rule.
- (6) A requirement that all students taking ISTEP+ and IMAST assessments take the IREAD-3 assessment.
- (7) Beginning with the 2012-2013 school year, retention of a student in grade 3 if the student does not achieve a passing score on the IREAD-3 assessment during the previous school year or during a subsequent attempt at passing IREAD-3. The student ~~shall not~~ **is not required to** be retained if one (1) of the following applies to the student:
 - (A) The student has been retained two (2) times prior to promotion to grade 4 **and the following requirements are met:**
 - (i) **the school determines that promotion is appropriate;**
 - (ii) **the school addresses learning needs of students who are promoted under this subsection**
 - (B) The student has a disability and a case conference committee has determined that promotion is appropriate. **The determination:**
 - (i) **Shall be made after the intervention required under section 5 of this rule has been provided;**
 - (ii) **In the discretion of the case conference committee, may be made prior to the summer administration of the IREAD-3.**
 - (C) The student is an English learner and a committee consisting of:
 - (i) the student's parent;
 - (ii) a building level administrator or designee;
 - (iii) a classroom teacher of service;
 - (iv) an English learner teacher, if one exists; and
 - (v) an English learner district administrator, if one exists;
 determines that promotion is appropriate based on the implementation of researched-based instructional practices outlined in the student's individual learning plan. **The determination:**
 - (i) **Shall be made after the intervention required under section 5 of this rule has been provided;**
 - (ii) **In the discretion of the individual learning plan team, may be made prior to the summer administration of the IREAD-3.**
- (8) Promotion of students retained under subdivision (6) when the student achieves grade-level reading proficiency ~~as demonstrated~~ by passing IREAD-3.

- (9) Professional development for teachers that includes the following:
 - (A) Utilizing assessment data to target the measurable student achievement goals for each grade level.
 - (B) Development differentiated for teachers based on classroom data.
 - (C) Development of model classrooms within the school.
 - (D) When possible, job-embedded time for professional development and collaboration.
 - (10) A monitoring plan that evaluates the implementation of the reading plan.
 - (b) A reading plan for a charter school ~~will~~ **may** be collected by a charter school's sponsor, and ~~must~~ **shall** include the following general information:
 - (1) **In exchange for the freedom and flexibility allowed charter schools, an exceptional level of accountability as demonstrated through making determinant evaluations of reading skills by grade 3 based upon IREAD-3 data;**
 - (2) **Retention as a last resort for students reading below grade level as measured by the IREAD-3 assessment, unless section 3(a)(7) of this rule applies.**
- required in this section, but does not need to meet the form prescribed by the department. (Indiana State Board of Education; 511 IAC 6.2-3.1-3; filed Mar 25, 2011, 10:26 a.m.: 20110420-IR-511100635FRA; filed Mar 21, 2012, 11:28 a.m.: 20120418-IR- 511110561FRA)*

SECTION 4. 511 IAC 6.2-3.1-4 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.2-3.1-4 Reading plan; instruction

Authority: IC 20-19-2-8; IC 20-32-8.5-4

Affected: IC 20-31; IC 20-32-8.5

Sec. 4. (a) Reading instruction for all students in the school ~~kindergarten through third grade~~ must include the following:

- (1) A research-based core reading program that provides a scope and sequence in order to scaffold the instruction of scientifically-based reading, including the following:
 - (A) Phonemic awareness.
 - (B) Phonics.
 - (C) Fluency.
 - (D) Vocabulary
 - (E) Comprehension.
- (2) A dedicated, uninterrupted minimum ninety (90) minute block of time daily to all students. The time must include whole group instruction using a core reading program and small-group differentiated instruction. Half-day kindergarten programs must provide ninety (90) minutes of instruction but do not have to provide the instruction during an uninterrupted block of time.
- (b) The following exemptions apply:
 - (A) ~~charter schools are exempt from this subdivision; and~~
 - (B) public schools and accredited nonpublic schools in which ninety percent (90%) of students pass IREAD-3 are exempt from **the ninety (90) minutes of uninterrupted instruction required under subsection (a)(2)** this subdivision.
 - (Bb) A school is not required to offer a research-based core reading program under subsection (a)(1) if:
 - (1) the state board determines that the school falls within one (1) of the top two (2) performance categories under 511 IAC 6.2-6-5; and
 - (2) ninety percent (90%) of students pass IREAD-3 during the school year immediately preceding the submission of the plan.
- (c) ~~A sponsor of a charter school whose students do not pass IREAD-3 at ninety percent (90%) or higher shall require that charter school to implement scientifically-based reading instruction.~~ *(Indiana State Board of Education; 511 IAC 6.2-3.1-4; filed Mar 25, 2011, 10:26 a.m.: 20110420-IR-511100635FRA; filed Mar 21, 2012, 11:28 a.m.: 20120418-IR-511110561FRA)*

SECTION 5. 511 IAC 6.2-3.1-5 IS AMENDED TO READ AS FOLLOWS:

511 IAC 6.2-3.1-5 Reading plan; intervention

Authority: IC 20-19-2-8; IC 20-32-8.5-4

Affected: IC 20-31; IC 20-32-8.5

Sec. 5. (a) A school shall intervene with students who have reading deficiency as determined by assessment results.
(b) Intervention for students prior to the retention determination under section 3(a)(6) [section 3(6)] of this rule must include, but is not limited to, the following types of remediation:

- (1) Research-based materials that address reading deficiencies as determined by the assessment results.
- (2) Principles of response to instruction.

(c) Intervention for a student who has a disability and a case conference committee may align with the requirements of the student's current IEP, if case conference committee considers the IREAD-3 assessment data and determines that modifications to the student's IEP should not be made.

(ed) If a school intervenes, the school shall notify and involve the student's parent or guardian. The notice must include the following:

- (1) A description and explanation of the deficiency.
- (2) Proposed supplemental instruction services.
- (3) Strategies for parents to use to assist the student.
- (4) Notice that the student will be retained if the student does not achieve a passing score on the IREAD-3 assessment.

(de) Intervention for students retained under section 3(a)(6) [section 3(6)] of this rule must include, but is not limited to, the following types of remediation:

- (1) Scientifically-based reading strategies that meet the student's needs.
- (2) Instruction by an effective teacher as measured by student performance results.
- (3) At least ninety (90) minutes of reading instruction each school day.
- (4) At least one (1) of the following instructional options:
 - (A) Tutoring before or after school.
 - (B) Parent workshops and a parent-guided home reading program.
 - (C) A mentor or tutor with specialized reading training and may include volunteers or school staff.
 - (D) Extended-day programs.
 - (E) Supplemental instruction services.

(Indiana State Board of Education; 511 IAC 6.2-3.1-5; filed Mar 25, 2011, 10:26 a.m.: 20110420-IR-511100635FRA)

SECTION 6. 511 IAC 6.2-3.1-6 IS ADDED TO READ AS FOLLOWS:

511 IAC 6.2-3.1-6 Reading plan; implementation

Authority: IC 20-19-2-8; IC 20-32-8.5-4

Affected: IC 20-31; IC 20-32-8.5

Sec. 5. (a) **A school shall abide by its Reading Plan;**

(b) If a school does not implement its Reading Plan in accordance with the provisions of this Rule, any flexibility otherwise available to the school under section 4 of this rule shall be void for the following school year.

(Indiana State Board of Education; 511 IAC 6.2-3.1-6)