



MEMORANDUM

To: State Board of Education
From: Becky Bowman, Director of Special Education
Date: August 23, 2013
Re: Request for approval to initiate rulemaking and for proposed rule

Pursuant to 511 IAC 7-34, school corporations are required to make special education and related services available to parentally placed nonpublic school students with disabilities located within the school corporation's boundaries. Funding for these services comes from two sources: (1) a proportionate share of the school corporation's federal special education award, and (2) state special education funds.

Indiana Code 20-43-7-9 requires school corporations to expend the state special education funds generated by the number of nonpublic school students with disabilities the school corporation serves. The State Board is tasked with adopting rules regarding annual reporting requirements, monitoring, and consequences for non-compliance. The adopted the requisite rules last summer. The current rules have reporting requirements based on calendar year state tuition support funding.

Beginning July 1, 2013, state tuition support funding will be distributed on a fiscal year, rather than calendar year basis. As a result, the rules on the reporting requirements need to be revised to align with the new fiscal year cycle. A copy of the proposed amendments to 511 IAC 7-48 is attached for your review. We respectfully request approval to initiate this rulemaking and of the proposed amendments.

TITLE 511 INDIANA STATE BOARD OF EDUCATION

Proposed Rule
LSA Document #13-XXX

DIGEST

Amends the dates to align with the change in state tuition support distributions from a calendar year basis to a fiscal year basis. Effective 30 days after filing with the publisher.

511 IAC 7-48

SECTION 1. 511 IAC 7-48 IS AMENDED TO READ AS FOLLOWS:

Rule 48. Minimum expenditure requirements

511 IAC 7-48-1 Applicability

Authority: IC 20-43-7-9

Affected: IC 20-43-7

Sec 1. (a) This rule applies to school corporations as defined in IC 20-43-1-23(a).

(b) This rule does not apply to charter schools.

511 IAC 7-48-2 Definitions

Authority: IC 20-43-7-9

Affected: IC 20-43-7

Sec. 2. The following definitions apply throughout this rule:

- (1) "Child count" means the number of eligible pupils enrolled in special education programs on ~~December 1 pursuant to IC 20-43-7-1~~ **on the count date established in IC 20-43-7.**
- (2) "Department" means the department of education established by IC 20-19-3-1.
- (3) "**Fiscal year**" means **the state fiscal year that begins on July 1 and ends on June 30.**
- (4) "Parentally-placed nonpublic school students with disabilities" has the meaning set forth in IC 20-43-1-18.5.
- (5) "Related services" has the meaning set forth in 511 IAC 7-32-79.
- (6) "Special education" has the meaning set forth in 511 IAC 7-32-86.
- (7) "State special education grant" means the amount of state funds a school corporation receives pursuant to IC 20-43-7.

511 IAC 7-48-3 Expenditure requirements

Authority: IC 20-43-7-9

Affected: IC 20-43-7

Sec 3. (a) The amount of the state special education grant that the school corporation must expend on services to the group of parentally placed nonpublic school students with disabilities during a ~~calendar~~ **fiscal** year shall be based on the child count of parentally-placed nonpublic school students with disabilities reported on ~~December 1~~ **the date established in IC 20-43-7** immediately preceding that ~~calendar~~ **fiscal** year.

(b) Beginning in ~~calendar year 2012~~ **July 1** and no later than ~~December 31~~ **June 30**, the school corporation must, at a minimum and exclusive of federal special education funds, expend the amount determined in subsection (a) on special education and related services to parentally-placed nonpublic school students with disabilities pursuant to 511 IAC 7.

(c) The school corporation may expend state special education grant funds on behalf of parentally-placed nonpublic school students with disabilities to provide the following:

- (1) Child find activities as defined in IC 20-43-1-8.5 and 511 IAC 7-40, including evaluations, reevaluations, and independent educational evaluations.
- (2) Special education.
- (3) Related services.

(d) By December 31 of each calendar year, the department shall establish and publish the following:

- (1) Procedures and forms for school corporations to report the amount of state special education grant funds generated by and expended on services to parentally-placed nonpublic school students.
- (2) Procedures to be utilized by the department in monitoring a school corporation's compliance with this rule, including the consequences for a school corporation's failure to comply with any of the following:
 - (A) IC 20-43-7-9.
 - (B) This rule.
 - (C) Procedures established under this rule.

(e) Beginning with calendar year 2012, the school corporation shall comply with the reporting requirements established by the department, and the department shall monitor the school corporation's compliance with such requirements.

(f) **Beginning July 1, 2014,** ~~the~~ department shall monitor the school corporation's actual expenditures under this rule in the ~~calendar~~ **fiscal** year immediately following the ~~calendar~~ **fiscal** year in which the expenditures were required.

(g) The department shall notify the school corporation in writing of any noncompliance. The written notice shall include the following:

- (1) The nature of the noncompliance.
- (2) The corrective action the school corporation must take.
- (3) The deadline for the corrective action to be implemented.
- (4) The consequences for failing to take the corrective action by the established deadline.
- (5) The process to appeal the department's findings.