



# INDIANA STATE BOARD OF EDUCATION

## MEMORANDUM

**TO:** Indiana State Board of Education  
**FROM:** Chad E. Ranney, Deputy General Counsel Indiana State Board of Education  
**DATE:** February 14, 2018  
**RE:** **Timeline – Promulgation of Proposed Accountability Rule & Public Hearings under IC 4-22-2-23.1**

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The Indiana State Board of Education (“Board”) has initiated the rulemaking process for the purpose of adopting rules concerning the assessment of school and school corporation growth and performance. The Board is an agency subject to the rulemaking procedures set forth in IC 4-22-2. As such, the Board is required to conduct the following rulemaking actions when adopting new rules.

1. Notify the public of the Board’s intent to adopt a rule.<sup>1</sup>
2. Publish the text of the proposed rule and a Notice of Public Hearing.<sup>2</sup>
3. Conduct a public hearing on the proposed rule.<sup>3</sup>
4. Fully consider comments received at the public hearing.<sup>4</sup>

The Board published its Notice of Intent to Adopt a Rule in the Indiana Register on January 10, 2018, and is prepared to publish the text of the proposed rule and a Notice of Public Hearing on February 14, 2018.<sup>5</sup> Once the text of the proposed rule and a Notice of Public Hearing is published, the Board must wait at least twenty-one (21) days before conducting the public hearing required under IC 4-22-2-26.<sup>6</sup>

While Indiana law prescribes when a formal public hearing may take place, IC 4-22-2-23(d) and IC 4-22-2-23.1(b) permit agencies to solicit comments from the public on any subject related to a rulemaking action. In an effort to provide ample opportunity for the public to submit comment, Board staff proposes using the flexibility offered under IC 4-22-2-23.1(b) to conduct public hearings for the purpose of soliciting public comments on the Board’s proposed accountability rule.<sup>7</sup> In addition to conducting these public hearings, Board staff recommends the Board add two additional Work Sessions to its calendar – March 21, 2018 and April 3, 2018 – for purposes of discussing public comments received during the public meetings and potential changes to the proposed rule stemming from those comments.

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<sup>1</sup> See IC 4-22-2-23.

<sup>2</sup> See IC 4-22-2-24.

<sup>3</sup> See IC 4-22-2-26.

<sup>4</sup> See IC 4-22-2-27.

<sup>5</sup> Under IC 4-22-2-23(b), an agency must wait at least twenty-eight (28) days after filing a Notice of Intent to Adopt a Rule before it publishes the text of the proposed rule and a Notice of Public Hearing. As such, the earliest date on which the Board may publish the text of the proposed rule and a Notice of Public Hearing is February 14, 2018.

<sup>6</sup> Board staff anticipates conducting the public hearing required under IC 4-22-2-26 in Indianapolis on Friday, March 9, 2018. However, that date is subject to LSA approval.

<sup>7</sup> Public hearings conducted under IC 4-22-2-23.1 are meant to supplement, not replace, the public hearing required under IC 4-22-2-26.



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**Proposal – Prior to the public hearings required under IC 4-22-2-26, Board staff will conduct four (4) public hearings under IC 4-22-2-23.1 for the purpose of soliciting public comments on the Board’s proposed accountability rule.**

1. Board staff will conduct four (4) public hearings at the following locations on the following dates:
  - a. **Ivy Tech Coliseum Campus** – Fort Wayne, Indiana;
    - **Monday, February 19<sup>th</sup>**
    - 4:00 p.m. – 7:00 p.m.
  - b. **Ivy Tech South Bend** – South Bend, Indiana;
    - **Thursday, February 22<sup>nd</sup>**
    - 4:00 p.m. – 7:00 p.m.
  - c. **Univ. of Evansville** – Evansville, Indiana;
    - **Monday, Feb 26<sup>th</sup>**
    - 4:00 p.m. – 7:00 p.m.
  - d. **Ivy Tech Madison** – Madison, Indiana
    - **Thursday, March 1<sup>st</sup>**
    - 4:00 p.m. – 7:00 p.m.
2. All public hearings conducted under IC 4-22-2-23.1 will be conducted prior to the public hearing required under IC 4-22-2-26.
3. To ensure the public has an opportunity to attend, public hearings conducted under IC 4-22-2-23.1 will be conducted between the hours of 4:00 p.m. and 7:00 p.m.
4. Board members are invited to attend these meetings to listen to the public comment; however, staff requests board members notify staff in advance to ensure compliance with Indiana’s Open Door laws.
5. To ensure the Board has an opportunity to review and consider all public comments made during the public hearings, public comments will be transcribed via a court reporter.

## Timeline – Promulgation of Proposed Accountability Rule:

- Feb. 14 – SBOE Meeting; Proposed Rule published
- Feb. 19 – Public Hearing (Fort Wayne)
- Feb. 22 – Public Hearing (South Bend)
- Feb. 26 – Public Hearing (Evansville)
- March 1 – Public Hearing (Madison)
- March 7 – SBOE Meeting



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- March 9 – Potential Public Hearing (Indianapolis)
- March 21 – Recommended SBOE Work Session
  - SBOE to discuss public comments and proposed changes based on those comments
  - Staff will update rule based on Board's vote
- April 3 – Recommended SBOE Work Session
  - SBOE to discuss public comments and proposed changes based on those comments
  - Staff will update rule based on Board's vote
- April 4 – SBOE Meeting; Board votes to approve Final Rule
- April 6 – Final Rule submitted to OAG
- May 21 – OAG Review Complete
- May 25 – Final Rule submitted to GOV for signature