

PROPOSED AMENDMENT

HB 1380 # 21

DIGEST

Required hearings. Provides that the office of administrative law proceedings (office) has jurisdiction over hearing officers authorized to conduct hearings required by the Individuals with Disabilities Education Act (IDEA). Requires the office to: (1) determine the cost of conducting hearings; and (2) assess a fee for each school corporation and charter school that is: (A) based on the average daily membership of the school corporation or charter school; and (B) sufficient to cover the costs. Provides that on April 8, 2024, a school corporation or charter school may cancel school or use the day as a virtual student instructional day for the observance of the solar eclipse occurring on that date. Removes provisions that do the following: (1) Provide that when a parent agrees to participate in a: (A) mediation; or (B) facilitated individualized education program (IEP) meeting through the department; and subsequently initiates a due process hearing, a public agency shall have the burden of proof at the subsequent due process hearing. (2) Provide that a public agency shall have the burden of proof, including the burden of persuasion and production, for all expedited due process hearings, regardless of whether a mediation or facilitated IEP meeting was initiated before filing for the expedited due process hearing. (3) Provide that a public agency shall not require, as part of a resolution of a due process hearing or a dispute relating to the provision of special education services to a particular student, that a parent of a student or an emancipated student enter into a nondisclosure, nondisparagement, or confidentiality agreement or clause.

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- 1 Page 1, delete lines 1 through 15.
2 Page 2, delete lines 1 through 6.
3 Page 14, delete lines 18 through 42, begin a new paragraph and
4 insert:
5 "SECTION 19. IC 20-35-2-1, AS AMENDED BY P.L.43-2021,
6 SECTION 114, IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2024]: Sec. 1. (a) There is established under the
8 state board a division of special education. The division shall exercise
9 all the power and duties set out in this chapter, IC 20-35-3 through
10 IC 20-35-6, and IC 20-35-8.
11 (b) The governor shall appoint, upon the recommendation of the
12 secretary of education, a director of special education who serves at the
13 pleasure of the governor. The amount of compensation of the director
14 shall be determined by the budget agency with the approval of the
15 governor. The director has the following duties:
16 (1) To do the following:

1 (A) Have general supervision of special education programs
 2 and services, including those conducted by school
 3 corporations, charter schools, the Indiana School for the Blind
 4 and Visually Impaired, the Indiana School for the Deaf, the
 5 department of correction, and the division of mental health and
 6 addiction to ensure compliance with federal and state special
 7 education laws and rules.

8 (B) Take appropriate action to ensure school corporations,
 9 charter schools, and the department remain eligible for federal
 10 special education funds.

11 **(C) Oversee the training of hearing officers and establish**
 12 **guidelines as described in IC 20-35-14-5.**

13 (2) With the consent of the secretary of education and the budget
 14 agency, to appoint and determine salaries for any assistants and
 15 other personnel needed to enable the director to accomplish the
 16 duties of the director's office.

17 SECTION 20. IC 20-35-14 IS ADDED TO THE INDIANA CODE
 18 AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2024]:

20 **Chapter 14. Employment of Independent Hearing Officers**

21 **Sec. 1. As used in this chapter, "IDEA" refers to the federal**
 22 **Individuals with Disabilities Education Act, 20 U.S.C. 1400 et seq.**

23 **Sec. 2. As used in this chapter, "office" has the meaning set**
 24 **forth in IC 4-15-10.5-6.**

25 **Sec. 3. (a) The office has jurisdiction over hearing officers**
 26 **authorized to conduct hearings required by the IDEA.**

27 **(b) The office is granted jurisdiction to conduct hearings**
 28 **described in subsection (a) as permitted under IC 4-15-10.5-12.**

29 **Sec. 4. Not later than August 1, 2024, the department and the**
 30 **office shall enter into a memorandum of understanding regarding**
 31 **the transition to hearing officers employed by the office as**
 32 **full-time, salaried, state employees to act as and satisfy the**
 33 **requirements regarding independent hearing officers under the**
 34 **IDEA.**

35 **Sec. 5. The director of special education appointed under**
 36 **IC 20-35-2-1 shall:**

37 **(1) oversee the training of hearing officers; and**
 38 **(2) establish guidelines for hearing officers who conduct**
 39 **hearings under this chapter, including guidelines to ensure**
 40 **compliance with state and federal special education laws and**

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rules.
Sec. 6. The office shall:
(1) determine the cost of conducting hearings under this chapter; and
(2) after July 1, 2025, assess each school corporation and charter school in the state a fee that is sufficient to cover the costs determined under subdivision (1)."

Page 15, delete lines 1 through 17.

Page 24, after line 39, begin a new paragraph and insert:

"SECTION 28. [EFFECTIVE UPON PASSAGE] (a) The definitions used in IC 20-18-2 apply throughout this SECTION.

(b) On April 8, 2024, a school corporation or charter school may elect to cancel school or to use the day as a virtual student instructional day for the observance of the solar eclipse occurring on that date.

(c) If a school corporation or charter school elects to, in accordance with subsection (b):

(1) use the day as a virtual student instructional day, notwithstanding IC 20-30-2-2.7, the virtual student day does not count towards the three (3) virtual student instructional days under IC 20-30-2-2.7; or

(2) cancel school, the canceled school day may not be used to penalize the school corporation or charter school under IC 20-30-2-4 for not meeting the one hundred eighty (180) student instructional days set forth in IC 20-30-2-3.

(d) This SECTION expires July 1, 2024.

SECTION 29. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

(Reference is to HB 1380 as reprinted January 24, 2024.)