

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS**

200 W. Washington St., Suite 301
Indianapolis, IN 46204
(317) 233-0696
iga.in.gov

FISCAL IMPACT STATEMENT

LS 6965

BILL NUMBER: HB 1134

NOTE PREPARED: Jan 26, 2022

BILL AMENDED: Jan 25, 2022

SUBJECT: Education Matters.

FIRST AUTHOR: Rep. Cook

FIRST SPONSOR: Sen. Rogers

BILL STATUS: As Passed House

FUNDS AFFECTED: **GENERAL**
 DEDICATED
 FEDERAL

IMPACT: State & Local

Summary of Legislation: *Advisory Committee:* This bill establishes requirements for a school corporation to establish a Curriculum Advisory Committee.

Posting Curriculum: This bill defines a “qualified school”. It also establishes requirements for a school corporation or qualified school to establish a curriculum portal.

Personal Affirmation and Employee Training: This bill provides that a school corporation or qualified school may not promote certain concepts as part of a course of instruction or in a curriculum or direct or otherwise compel a school employee or student to adhere to certain tenets relating to the individual’s sex, race, ethnicity, religion, color, national origin, or political affiliation. It provides that a school corporation or qualified school may not require an employee of the school corporation or qualified school to engage in certain training, orientations, or therapies. It also establishes a complaint process.

Student Analysis, Evaluation, or Survey: This bill provides that a student shall not be required to participate in a personal analysis, an evaluation, or a survey that reveals or attempts to affect the student’s attitudes, habits, traits, opinions, beliefs, or feelings without parental consent. It also provides that, if a school corporation or qualified school uses a third party vendor in providing a personal analysis, evaluation, or survey that reveals, identifies, collects, maintains or attempts to affect a student’s attitudes, habits, traits, opinions, beliefs, or feelings, the third party vendor and the school corporation or qualified school may not collect or maintain the responses to or results of the analysis, evaluation, or survey in a manner that would identify the responses or results of an individual student.

School Mental Health Service: This bill establishes a consent procedure to be used before a school

corporation or qualified school may provide or administer certain mental, social-emotional, or psychological services to a student.

Sexually Explicit Material: This bill makes changes to the definition of “sexually explicit” for the purpose of trade regulation. It removes schools and certain public libraries from the list of entities eligible for a specified defense to criminal prosecutions alleging: (1) the dissemination of material harmful to minors; or (2) a performance harmful to minors. It adds colleges and universities to the entities eligible for a specified defense to criminal prosecutions alleging: (1) the dissemination of material harmful to minors; or (2) a performance harmful to minors. This bill also makes conforming amendments.

Effective Date: July 1, 2022.

Explanation of State Expenditures: *Department of Education (DOE):* This bill’s requirements are within the routine administrative functions of the DOE and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels. As prescribed in this bill, the DOE must:

- Develop a model plan for schools to post information on their website regarding the school's Curricular Materials Advisory Committee;
- Develop a model plan for schools to post the required curricular materials and activities on their website (and may develop or procure a system to do the same);
- Develop the guidance necessary for schools to carry out the requirements of this bill;
- Ensure that all current and future guidelines and methods the DOE creates regarding teacher education and teacher training adhere to the requirements of this bill;
- Ensure all standards, curriculum, activities, and events developed or administered adhere to the requirements of this bill;
- Post on their website all materials developed regarding cultural competency for use in providing professional and staff development programs and ensure such materials adhere to the requirements of this bill;
- Determine whether or not to suspend or revoke the license of a teacher, principal, superintendent, or any other individual licensed by the DOE for violating the requirements of this bill; and
- Develop and post on their website a complaint form for individuals to use to report a violation of the restrictions of this bill.

Office of the Public Access Counselor: This bill allows individuals to request an advisory opinion from the Public Access Counselor as to whether or not a school is in compliance with the curricular materials and activities posting requirements as prescribed in this bill. It also requires the portion of the Public Access Counselor's annual report to the Legislative Services Agency regarding the number of public access complaints received about school corporations, to disaggregate the complaints by each school corporation. These requirements are within the agency’s routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

Additional Information: Posting Curriculum: This bill defines a qualified school as: a school maintained by a school corporation, a charter school, a laboratory school, the Indiana School for the Blind and Visually Impaired, and the Indiana School for the Deaf.

State Educational Institutions (SEIs): This bill adds colleges, universities, and college libraries to the entities eligible for a specified defense to criminal prosecutions alleging the dissemination of materials or performances which are harmful to minors.

Personal Affirmation and Employee Training: A school corporation, qualified school, governing body of a school, or an employee of either of these entities may not:

- Require an employee of a school to engage in training, orientation, or therapy that violates the restrictions prescribed in this bill; nor
- Direct or compel K-12 students, or any employee of a school corporation or qualified school to affirm specific tenets as prescribed in this bill.

Explanation of State Revenues: *Court Fee Revenue:* This bill permits an individual to bring a civil action against a school corporation, qualified school, or an applicable third party vendor for violating the requirements of this bill. If additional civil actions occur and court fees are collected, revenue to the state General Fund may increase. A civil costs fee of \$100 could be assessed from the defendant, 70% of which would be deposited in the state General Fund if the case is filed in a court of record or 55% if the case is filed in a city or town court.

In addition, some or all of the judicial salaries fee (\$20), public defense administration fee (\$5), court administration fee (\$5), and the judicial insurance adjustment fee (\$1) are deposited into the state General Fund. Proceeds from the automated record keeping fee (\$20) are deposited into the State User Fee Fund. Additional fees may be collected at the discretion of the judge and depending upon the particular type of case.

Explanation of Local Expenditures: *Summary:* This bill's requirements represent an additional workload [and/or expenditure] on school corporations and qualified schools outside of their routine administrative functions, and existing staffing and resource levels, if currently being used to capacity, may be insufficient for full implementation. The additional funds and resources required could be supplied through existing staff and resources currently being used in another program or with new appropriations. Ultimately, the source of funds and resources required to satisfy the requirements of this bill will depend on legislative and administrative actions.

Additional Information:

Civil Actions: This bill permits an individual to bring a civil action against a school corporation, qualified school, or an applicable third party vendor for violating the requirements of this bill. An individual prevailing in such action may be entitled to court costs, reasonable attorney's fees, actual damages resulting from the violation of up to \$1,000, and declaratory or injunctive relief. Any such expenses will depend on the local action of school not complying with this bill's requirements and the ruling of the court.

Complaints: Principals of qualified schools must investigate and respond to all complaints filed using the DOE's complaint form, as well as provide remedy to a complaint as deemed necessary. Any appeal filed in response to a principal's determination must be processed by the school's superintendent. Any appeal filed in response to a superintendent's determination must be processed by the school's governing body. Any appeal filed in response to a governing body's determination must be processed by the DOE. After receiving the DOE's decision, an individual may file a civil action as prescribed in the bill.

Posting Curriculum: Starting not later than August 1, 2023, qualified schools must annually post, as prescribed in the bill, their curricular material and educational activities on the school's curriculum portal (which may include the school's website, learning management system, or other webpage or electronic modality of the school). Qualified schools must provide instruction for parents to review the nonelectronic materials, allow parents to visit a school during normal business hours (in a manner prescribed by the school)

to inspect the nonelectronic curricular materials, and allow parents of students to inspect curricular materials relating to human sexuality, personal analyses, evaluations, and surveys. Additionally, the school's governing body must adopt a policy regarding the accessibility of curricular materials and educational activities before the start of the 2023-2024 school year.

Advisory Committee: This bill provides that the governing body of each school corporation must create procedures regarding: committee creation, selecting and appointing members, reviewing curricular materials, making recommendations, and holding public meetings. A school's governing body must post the procedures on their website, hold a public meeting regarding the procedures, then adopt or edit the procedures. The governing body must review and consider all recommendations submitted to them by the committee. A school's governing body may only adopt curricular materials after reviewing recommendations from the superintendent and the committee.

Up to 50% of a committee's membership may consist of teachers and administrators of the school, increasing the workload of these school employees. Any additional compensation paid by the school to members of the committee will depend on local action.

Student Analysis, Evaluation, or Survey: If a school corporation or qualified school uses a third party vendor to provide a personal analysis, evaluation, or survey, as described in this bill, then the school and the vendor may not record, collect, or maintain the responses to, or results of, the analysis, evaluation, or survey in any manner which may identify the responses or results of an individual student.

School Mental Health Service: A licensed psychologist or school psychologist at a qualified school, or an employee of the school, may not provide a student with, or refer a student to community resources for, services for mental, social-emotional, or psychological health issues without the written consent of the student's parent, unless the parent fails to respond to the notices requesting their consent (this requirement excludes certain emergency services and federally required special education services as prescribed in this bill). Qualified schools must provide a parent with a consent form that accurately summarizes the contents of the services to be offered to the student and indicates that a parent has the right to review and inspect all materials related to the services.

Sexually Explicit Material: This bill removes public schools and certain public libraries from the list of entities eligible for a specified defense to criminal prosecutions alleging the dissemination of materials or performances which are harmful to minors.

Personal Affirmation and Employee Training: School corporations and qualified schools must ensure they do not use money, property, assets, or resources for a purpose that incorporates the prohibited practices outlined in this bill. They must ensure that no course instruction, curriculum, curricular material, assignment, counseling, orientation, intervention, training, professional development, or any other form of assistance promotes any of the restricted concepts as prescribed in this bill. Schools must also ensure that the required civics course abides by the requirements of this bill. Any school not already in compliance with these requirements will need to update or modify portions of their instruction or curriculum as necessary.

Good Citizenship Instruction Curriculum: School corporations and charter schools must ensure their curriculum for "Good Citizen Instruction" meets the requirements of this bill. Any school not meeting these new requirements will need to update their curriculum to be in compliance. Any increase in workload to schools will depend on local action.

Applicability: The Muncie Community School Corporation must adhere to this bill's requirements regarding: the Curricular Materials Advisory Committee; personal analyses, evaluations, and surveys; the prohibited tenets; curriculum posting; as well as personal affirmation and employee training.

Explanation of Local Revenues: *Court Fee Revenue:* If additional civil actions occur and court fees are collected, local governments would receive additional revenue from both a portion of the civil costs fee and other fees that would be collected.

State Agencies Affected: Office of the Public Access Counselor; Department of Education; Indiana School for the Blind and Visually Impaired; Indiana School for the Deaf; Laboratory schools; State educational institutions.

Local Agencies Affected: School corporations; Charter schools; Trial courts; City and town courts.

Information Sources:

Fiscal Analyst: Jason Barrett, 317-232-9809.