

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

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

**FISCAL IMPACT STATEMENT**

**LS 7004**  
**BILL NUMBER: SB 167**

**NOTE PREPARED: Dec 31, 2021**  
**BILL AMENDED:**

**SUBJECT:** Education Matters.

**FIRST AUTHOR:** Sen. Baldwin  
**FIRST SPONSOR:**

**BILL STATUS:** As Introduced

**FUNDS AFFECTED:**  **GENERAL**  
 **DEDICATED**  
 **FEDERAL**

**IMPACT:** State & Local

**Summary of Legislation:** *Posting Curriculum:* This bill defines a "qualified school". It requires each qualified school to post educational activities and curricular materials on the school's Internet web site. It provides that public records that are available on a qualified school's Internet web site shall be excepted from public record requests for individuals that have access to the school's Internet web site at the discretion of the qualified school. It also requires the school corporation or qualified school to add functionality that allows parents of students in the school corporation to opt in to or opt out of certain educational activities and curricular materials under certain conditions.

*Advisory Committee:* This bill provides that the governing body of a school corporation shall create a Curricular Materials Advisory Committee comprised of parents, teachers, administrators, and community members. It requires the committee to submit recommendations regarding curricular materials and educational activities to the governing body of a school corporation. It provides parameters for the composition of the committee, the appointment of committee members, and the appointment of a committee chairperson. It requires the governing body to create educational activities and curricular materials review, discussion, and recommendation procedures for the committee. It also provides that the committee shall meet a certain number of times annually.

*Personal Affirmation and Employee Training:* This bill provides that a state agency, state educational institution, school corporation, or qualified school or an employee of the state agency, state educational institution, school corporation, or qualified school acting in an official capacity may not include or 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 also provides that a state agency, school corporation, qualified

school, or state educational institution or an employee of the state agency, school corporation, qualified school, or state educational institution acting in an official capacity may not require an employee of the school corporation, qualified school, or state educational institution to engage in training, orientation, or therapy that presents any form of racial or sex stereotyping or blame on the basis of sex, race, ethnicity, religion, color, national origin, or political affiliation.

*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 provides that before a school corporation or qualified school may provide or administer certain mental, social-emotional, or psychological services to a student, the school must provide the parent of the student or the student, if the student is an adult or an emancipated minor, with a written request for consent to provide or administer certain mental, social-emotional, or psychological services.

*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 also 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.

**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);
- 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; and
- Develop and post on their website a complaint form for individuals to use to report a violation of the restrictions of this bill

*State Educational Institutions (SEIs):* This bill requires SEIs to adhere to restrictions and guidelines for teacher preparation programs. An individual may bring a civil action against an SEI for violating one or more of these requirements. A court may award the individual with court costs, reasonable attorney's fees, actual damages resulting from the violation, and declaratory or injunctive relief. Any expenditures resulting from such civil action will depend on the actions of an SEI not complying with this bill's requirements and the ruling of the court. This bill also 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.

*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.

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

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

An administrator, or any other employee of any state agency or a teacher preparation program may not require an employee of the teacher preparation program to engage in training, orientation, or therapy that presents any form of the restrictions as defined in this bill. Also, a teacher preparation program at an SEI may not include or promote the concepts restricted 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, a state agency, or an SEI 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, a state agency, or an SEI 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, 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 June 30, 2023, qualified schools must annually post on their websites all of their electronic curricular material, a summary of their educational activities, and a list of their nonelectronic curricular materials. All curricular materials posted to a school's website must be broken down by grade level, teacher, and subject area. Qualified schools must also 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.

Qualified schools must include on their website the ability for the parents of students to opt into or opt out of curricular materials and educational activities as defined by statute or approved by the governing body of the school. If students are opted into or out of specific materials or activities, teachers may need to modify their class assignments or lesson plans to accommodate any differences in materials used by students and must ensure that all students still meet the required amount of instructional time.

*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.

Between 40% and 60% of a committee's membership must 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 qualified 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. 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 includes or 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.

**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.