Citations Affected: IC 20-19-5; IC 20-22.5; IC 20-26-14-8; IC 20-28-5-7; IC 20-31-4.1-8.5.

Synopsis: Education matters. Defines "applicable school". Provides that a state agency, school corporation, or applicable school, or an employee of the state agency, school corporation, or applicable school acting in an official capacity, may not direct or otherwise compel students or a school employee to personally affirm, adopt, or adhere to certain tenets relating to the individual's sex or race. Provides that a state agency, school corporation, or applicable school, or an employee of the state agency, school corporation, or applicable school acting in an official capacity, may not require an employee of the state agency, school corporation, or applicable school to engage in training, orientation, or therapy that presents any form of racial or sex stereotyping or blame on the basis of sex or race. Requires each school corporation or applicable school to adopt a policy to allow a taxpayer to observe classroom instruction at any time requested by the taxpayer. Requires, not later than July 30, 2022, and not later than June 30 each year thereafter, each applicable school to post on the applicable school's Internet web site, in a manner that is accessible by the public, certain information regarding learning materials and educational activities. Requires the department of education (department) to develop and post on the department's Internet web site a model plan for presenting the learning material or educational activity information. Establishes procedures for a petitioner to file a complaint form alleging certain violations occurred within a school corporation or applicable school. Provides that a petitioner may appeal a school corporation's or applicable school's findings to the department. Requires the department to appoint an administrative law judge to adjudicate appeals. Requires (Continued next page)

Effective: July 1, 2022.

Jacob, Nisly, Borders

January 6, 2022, read first time and referred to Committee on Education.
the department to issue a final order. Requires the attorney general or the attorney general's designee to review a school corporation's or applicable school's findings or the department's final order. Provides that the attorney general may assess civil penalties if the attorney general determines a violation occurred. Provides that a school corporation or applicable school may not take retaliatory action against a petitioner or an individual related to or associated with the petitioner. Repeals provisions requiring the department to develop the children's social, emotional, and behavioral health plan. Makes conforming amendments.
HOUSE BILL No. 1231

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-19-5 IS REPEALED [EFFECTIVE JULY 1, 2022]. (Children's Social, Emotional, and Behavioral Health Plan).

SECTION 2. IC 20-22.5 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]:

ARTICLE 22.5. PROTECTIONS FOR STUDENTS, PARENTS, AND EDUCATORS

Chapter 1. Policy and Applicability

Sec. 1. This article applies to:

(1) a school corporation;
(2) a charter school;
(3) the Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1;
(4) the Indiana School for the Deaf established by IC 20-22-2-1;
(5) a laboratory school established under IC 20-24.5-2; and
(6) a state accredited nonpublic school.

Chapter 2. Definitions

Sec. 1. The following definitions apply throughout this article:

(1) "Applicable school" refers to the following:
   (A) A school maintained by a school corporation.
   (B) A charter school.
   (C) A laboratory school established under IC 20-24.5-2.
   (D) The Indiana School for the Blind and Visually Impaired established by IC 20-21-2-1.
   (E) The Indiana School for the Deaf established by IC 20-22-2-1.
   (F) A state accredited nonpublic school.

(2) "Course" means any forum where instruction or activities tied to the instruction are provided, including:
   (A) courses;
   (B) training;
   (C) seminars;
   (D) professional development;
   (E) lectures;
   (F) sessions;
   (G) coaching;
   (H) tutoring; and
   (I) classes.

(3) "Educational activity" means a presentation, assembly, lecture, or any other educational activity or event that is:
   (A) organized or facilitated by a school corporation or applicable school or an employee of the school corporation or applicable school; and
   (B) conducted during instructional time (as defined in IC 20-30-2-1).

The term does not include a student presentation.

(4) "Educational activity presenter information" means the following:
   (A) The name of a presenter of an educational activity.
   (B) The name of the organization, if applicable, that the presenter of the educational activity represents.

(5) "Learning material" means any material used for student instruction by a school corporation or school, including the following:
   (A) Textbooks and other printed materials.
   (B) Audiovisual materials.
(C) Materials in electronic or digital formats, including materials accessible through the Internet.

(D) All materials to be presented or provided to students in connection with an educational activity.

The term includes a lesson plan, a syllabus, and any materials that contain curriculum content. The term does not include an academic test, quiz, or scoring keys.

Chapter 3. Prohibited Curriculum and Practices

Sec. 1. (a) A school corporation or applicable school, or a school employee acting in the employee's official capacity, may not include or promote the following concepts as part of a course or educational activity, or allow teachers or other employees of the school corporation or applicable school to use supplemental instructional materials that include or promote the following concepts as part of any student instruction or school employee training or other employment requirements:

(1) One (1) race or sex is inherently superior to another race or sex.

(2) An individual, by virtue of the individual's race or sex, is inherently privileged, racist, sexist, or oppressive, whether consciously or subconsciously.

(3) An individual should be discriminated against or receive adverse treatment because of the individual's race or sex.

(4) Members of one (1) race or sex cannot and should not attempt to treat others without respect to race or sex.

(5) An individual's moral character is determined by the individual's race or sex.

(6) An individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex.

(7) An individual should feel discomfort, guilt, or anguish or another form of psychological distress solely because of the individual's race or sex.

(8) Meritocracy or traits such as hard work ethic are racist or sexist, or designed by a particular race or sex to oppress members of another race or sex.

(9) Indiana or the United States was founded as a racist or sexist state or nation and is fundamentally or irredeemably racist or sexist.

(b) A school corporation or applicable school is prohibited from discriminating on the basis of race or sex in the form of bias, stereotyping, scapegoating, classification, or categorical assignment.
of traits, morals, values, or characteristics based solely on race or sex. School corporations and applicable schools are prohibited from engaging in race based or sex based discriminatory acts by using methods described in subsection (a), which result in treating individuals differently on the basis of race or sex or in the creation of a hostile environment.

(c) A school corporation or applicable school, or a school employee acting in the employee's official capacity, may not require a school employee or student to affirm a belief in a concept described in subsection (a) or the multiplicity or fluidity of gender identities, or similar concepts, that are against the school employee's or student's religious or philosophical convictions.

(d) A school corporation or applicable school may not do the following:

(1) Provide, contract to provide, offer, or sponsor any course that includes, incorporates, or is based on practices prohibited under this section.

(2) Use money, property, assets, or resources for a purpose that includes, incorporates, or is based on practices prohibited under this section.

(3) Adopt programs or use curricular material, instructional material, curriculum, classroom assignments, orientation, interventions, or counseling that include, incorporate, or are based on practices prohibited under this section.

(4) Execute a contract or agreement with an internal or external entity or person to provide services, training, professional development, or any other assistance that includes or incorporates practices prohibited under this chapter.

(5) Receive or apply to receive money that requires, as a condition of receipt of the money, the adoption of a course, policy, curriculum, or any other instructional material that includes, incorporates, or is based on practices prohibited under this section.

(6) Adopt diversity, equity, or inclusion plans or training for students or school employees that includes, incorporates, or is based on practices prohibited under this chapter. A diversity officer at a school corporation, applicable school, or educational program is prohibited from providing any service or performing any duty that includes, incorporates, or is based on practices prohibited under this section.

(7) Adopt policies, including grading or admissions policies, or
providing any other benefit or service that applies to students
or school employees differently on the basis of race or sex.
This includes segregated classes, programs, training sessions,
extracurricular activities, or affinity groups.

(e) Notwithstanding subsection (a), this section does not prohibit
a school corporation or applicable school from including, as part
of a course, or from allowing teachers or other employees of the
school corporation or applicable school to use supplemental
instructional materials that provide the following:

(1) The history of an ethnic group.
(2) The impartial discussion of controversial aspects of
history.
(3) The impartial instruction on the historical oppression of a
particular group of people based on race, ethnicity, class,
nationality, religion, or geographic region.
(4) Historical documents relevant to topics described in
subdivisions (1) through (3).

(f) Nothing in this section may be construed to prohibit the
required collection or reporting of demographic data by a school
corporation or applicable school.

Sec. 2. (a) This section does not apply to an academic test or
assessment.

(b) A third party vendor who has a contract with a school
corporation or applicable school is prohibited from providing
instruction, conducting surveys, or providing services to any
student or employee of the school corporation or applicable school
that conflicts with section 1 of this chapter.

Sec. 3. The state board, in consultation with the department,
shall adopt rules under IC 4-22-2 to prohibit applicable schools
from doing the following:

(1) Promoting or advocating for student participation in a
particular political affiliation, ideology, sectarian, or religion.
(2) Providing or making part of any course or educational
activity subject matter that includes instruction or evaluation
of a student's social, emotional, and behavioral health.
(3) Making part of a course, or awarding a grade or course
credit for, including extra credit, a student's:

(A) political activism, lobbying, or efforts to persuade
members of the legislative or executive branch at the
federal, state, or local level to take specific actions by
direct communication; or

(B) participation in any internship, practicum, or similar
activity involving social or public policy advocacy.

(4) Introducing any controversial subject matter or current event germane to the subject matter being taught.

(5) Endorsing, supporting, or engaging in any activity that impedes the lawful access to an applicable school by a military recruiter or local, state, or federal law enforcement officer.

Chapter 4. School Transparency

Sec. 1. (a) Subject to subsection (b), each school corporation and applicable school shall adopt a policy to allow any taxpayer to observe classroom instruction at any time requested by the taxpayer.

(b) The policy described in subsection (a) may establish procedures to:

1. minimize classroom disruptions;
2. ensure classroom safety; and
3. limit the number of taxpayers who may observe a particular class at any particular time if the number of taxpayers present to observe the class exceeds five (5).

Sec. 2. (a) This section applies to a learning material or educational activity to which any of the following apply:

1. The learning material or educational activity is or is intended to be assigned, distributed, or otherwise presented to:
   - (A) a student in a course or class for which the student receives credit;
   - (B) a student if use of the learning material or participation in the educational activity is required by the school corporation or applicable school; or
   - (C) a student and at least a majority of students in a grade level are expected to use the learning material or participate in the educational activity.

2. The learning material is or is intended to be included in a defined list of learning materials from which the students are required to select one (1) or more of the learning materials.

3. The learning material or educational activity is created by:
   - (A) the department;
   - (B) the governing body of a school corporation or applicable school; or
   - (C) an employee of a school corporation or applicable school.

(b) Not later than July 30, 2022, and not later than June 30 each year thereafter, each applicable school shall post on the applicable
school's Internet web site, in a manner accessible by the public, the following:

1. Information concerning any learning material or educational activity that is or is intended to be used for student instruction by the applicable school in the immediately following school year, organized by grade level, teacher, and subject area. The information posted under this subdivision must include the following:
   
   A. The title and author, organization, or Internet web site associated with each learning material and educational activity.
   
   B. The full text or a copy of the learning material or educational activity.

2. The title, author, and publisher of each book, periodical, treatise, article, recording, software, or paper available in the school's library.

3. Any procedures or policies in effect for the documentation, review, or approval of learning materials or educational activities used for student instruction.

(c) Each applicable school shall:

1. update the information described in subsection (b) at least one (1) time each semester; and

2. post a notice on the applicable school's Internet web site that the information has been updated and the date on which the information was updated.

(d) This section may not be construed to require an applicable school to post learning material or information concerning an educational activity in a manner that would constitute an infringement of copyright under the federal Copyright Act (17 U.S.C. 101 et seq.).

(e) The department shall:

1. develop a model plan for presenting the information described in this section on an applicable school's Internet web site; and

2. post the model on the department's Internet web site.

Sec. 3. (a) Upon request of a parent of a student enrolled in a school corporation or applicable school, the school corporation or applicable school shall make available, in the manner prescribed in subsection (b), for inspection to the parent of the student:

1. learning material for the particular student; and

2. educational activity presenter information for educational activity presenters currently scheduled for an educational
activity or who conducted an educational activity within twelve (12) months preceding the date of the request submitted under this subsection at the particular school that the student currently attends.

(b) A school corporation or applicable school shall make the information described in subsection (a) available for inspection at the particular school that the student attends during normal school office hours in a manner prescribed by the school corporation or applicable school within five (5) business days of receipt of the request. In addition, the school corporation or applicable school may make the information available to a parent:

(1) by posting the learning material or educational activity presenter information on the school corporation's or applicable school's Internet web site;
(2) by providing the information to the parent of the student by electronic mail; or
(3) by delivering, through regular mail or hand delivery, photocopies of the learning material or educational activity presenter information. A school corporation or applicable school may charge a fee under this subdivision in accordance with IC 5-14-3-8.

Sec. 4. (a) On or before August 1, 2023, and each August 1 thereafter, each school corporation or applicable school shall report to the department in a manner prescribed by the department:

(1) the number of complaints received pertaining to learning materials or educational activities for the previous school year; and
(2) procedures used by the school corporation or applicable school to protect disclosure of a student’s personal identifiable information from disclosure by the school corporation or applicable school or a third party vendor who contracts with the school corporation or applicable school.

(b) On or before September 1, 2023, and each September 1, thereafter, the department shall include the information provided by each school corporation and applicable school on the department's Internet web site.

Sec. 5. The state board may adopt rules under IC 4-22-2 to implement this chapter.

Chapter 5. Compliance

Sec. 1. (a) The department shall develop a complaint form to be used by an individual to file a complaint with a school corporation
or applicable school in the manner described in section 2 of this chapter alleging a violation under this article. The complaint form must contain the following information:

1. The date of the complaint.
2. The date or dates that the alleged violation occurred.
3. A detailed description of the alleged violation.
4. Information necessary to enable the school corporation or applicable school to investigate the violation.
5. The option for the petitioner to provide the identification of witnesses the school corporation or applicable school may interview, if applicable.

(b) The department shall maintain a copy of the complaint form on the department's Internet web site. In addition, each school corporation and applicable school must maintain a link to the complaint form on the school corporation's or applicable school's Internet web site.

Sec. 2. (a) A petitioner may file a complaint form developed by the department under section 1 of this chapter with a school corporation or applicable school alleging a violation of this article. The school corporation or applicable school, governing body, and the attorney general's office shall investigate each complaint to determine whether a violation occurred.

(b) Each school corporation shall designate at least one (1) employee to respond to complaints under this chapter. Every applicable school other than an applicable school that is part of a school corporation shall designate at least one (1) employee to review complaints under this chapter submitted to the particular applicable school. Each school corporation or applicable school shall include contact information including the:

1. name;
2. address;
3. telephone number; and
4. electronic mail address;

for the designated individual on the school corporation's or applicable school's Internet web site.

(c) Upon receipt of a complaint form, the school corporation or applicable school shall acknowledge receipt of the complaint form not later than three (3) business days after receipt of the complaint form. The school corporation or applicable school shall investigate the complaint within ten (10) business days after receipt of the complaint form and make findings that shall be sent by mail to the petitioner. If the school corporation or applicable school finds:
(1) that a violation occurred, the findings must include a
description of how the school corporation or applicable school
will remedy the violation; or
(2) that a violation did not occur, the findings must include an
explanation of the school corporation's or applicable school's
findings.
The school corporation or applicable school shall provide the
petitioner notice of the petitioner's right to appeal and the deadline
to appeal the findings under section 3 of this chapter with a copy
of the findings mailed to the petitioner under this subsection.
(d) Nothing in this section may be construed to require a school
corporation or applicable school to disclose personal identifiable
information of a student.
(e) The school corporation or applicable school shall send a copy
of the findings made under subsection (c) to the attorney general
for review under section 4 of this chapter if the petitioner does not
appeal the findings under section 3 of this chapter. The school
corporation or applicable school shall submit a copy of the school
corporation's or applicable school's finding to the attorney general
not later than five (5) business days after the date required for an
appeal to be considered timely under section 3 of this chapter.
Sec. 3. (a) A petitioner may appeal a school corporation's or
applicable school's findings made under section 2 of this chapter if
the petitioner believes that the school corporation or applicable
school has incorrectly refused to investigate a complaint form or
the petitioner has evidence that a school corporation or applicable
school has reached an incorrect determination under section 2 of
this chapter. The appeal must be submitted to the department by
the petitioner not later than thirty (30) days after the date of the
school corporation's or applicable school's findings and notice of
the petitioner's right to appeal were mailed to the petitioner under
section 2 of this chapter. The appeal must be submitted to the
department on a form prescribed by the department. The form
shall be available on the department's Internet web site, and the
school corporation or applicable school must maintain a link to the
form on the school corporation's or applicable school's Internet
web site.
(b) The department shall send notice to the school corporation
or applicable school of an appeal submitted under this section not
later than three (3) business days after receipt after the appeal.
(c) The department, using an administrative law judge
appointed by the attorney general's office, shall conduct
adjudicative proceedings under this section in accordance with IC 4-21.5-3. The administrative law judge who shall issue a final order in accordance to IC 4-21.5-3-27.

(d) If an administrative law judge determines that the school corporation or applicable school committed a protected right violation under this article, the final order may do any of the following:

1. Require the school corporation or applicable school to remedy the protected right violation.
2. Withhold state tuition support under IC 20-43 for the school corporation or applicable school until the protected right violation is remedied in accordance with the final order.
3. Recommend that the state board revoke the school corporation's or applicable school's performance based accreditation under IC 20-31-4.1.
4. Suspend or revoke a license under IC 20-28-5-7.
5. Include a recommendation for the attorney general to assess a civil penalty in accordance with section 4 of this chapter.

A school corporation or applicable school shall comply with a final order issued by the department.

e) The department shall submit a copy of the department's final order to the attorney general not later than five (5) business days after the date the final order is issued.

Sec. 4. (a) Upon receipt of either:

1. the findings submitted by a school corporation or applicable school under section 2 of this chapter; or
2. a final order submitted by the department under section 3 of this chapter;

the attorney general or the attorney general's designee shall review the findings of the school corporation, applicable school, or department. The attorney general may request additional information from the school corporation, applicable school, or department necessary to review the findings or final order.

(b) If, after conducting the review described in subsection (a), the attorney general determines that a violation occurred, the attorney general may assess a civil penalty against the school corporation or applicable school in an amount determined under subsection (c). A civil penalty assessed under this subsection must be deposited in the state general fund.

(c) The amount of a civil penalty under subsection (b) is as follows:
(1) For a first violation, at least one thousand dollars ($1,000) but less than five thousand dollars ($5,000) for each student or employee who is the subject of a violation under this section.

(2) For a second violation, at least five thousand dollars ($5,000) but less than ten thousand dollars ($10,000) for each student or employee who is the subject of a violation under this section.

(3) For any violation after a second violation, at least ten thousand dollars ($10,000) for each student or employee who is the subject of a violation under this section.

Sec. 5. (a) A petitioner may bring a civil action against a school corporation or applicable school if the petitioner is the subject of a violation under this article by the school corporation or applicable school.

(b) A court may award the following to a petitioner who prevails in a civil action under this section:

(1) Court costs and reasonable attorney's fees.

(2) The greater of:
   (A) actual damages resulting from the violation; or
   (B) liquidated damages in an amount of five thousand dollars ($5,000).

Sec. 6. (a) A school corporation or applicable school may not take any retaliatory action against any petitioner, or any other person related to or associated with the petitioner, who exercises any right under this article.

(b) A school corporation or applicable school may not take any retaliatory action against any petitioner, or any other person related to or associated with the petitioner, who files a complaint under this chapter.

(c) A court may award the following to an individual who prevails in a civil action under this section:

(1) Court costs and reasonable attorney's fees.

(2) The greater of:
   (A) actual damages resulting from the violation; or
   (B) liquidated damages in an amount of five thousand dollars ($5,000).

Chapter 6. Rulemaking

Sec. 1. The state board may adopt rules under IC 4-22-2 to implement this article.
JULY 1, 2022: Sec. 8. (a) The department shall notify the association of any license revocation or suspension involving a licensed teacher (as defined in IC 20-18-2-22) under IC 20-28-5-8 who:

(1) has:
   (A) been convicted of an offense described in IC 20-28-5-8(c); or
   (B) committed misconduct described in IC 20-28-5-7(1) IC 20-28-5-7(a)(1) or IC 20-28-5-7(2); IC 20-28-5-7(a)(2); and

(2) is also a coach accredited by the association.

(b) A school corporation, charter high school, or nonpublic high school with at least one (1) employee must report to the association, in a manner prescribed by the association, when a nonteaching or volunteer coach accredited by the association has been convicted of an offense described in IC 20-28-5-8(c).

(c) The association shall develop a rule, as soon as practicable, to suspend or revoke the coaching accreditation of a teacher who has been reported to the association under subsection (a) for committing misconduct described in IC 20-28-5-7(1) IC 20-28-5-7(a)(1) or IC 20-28-5-7(2).

(d) The association shall revoke the accreditation of any coach who has been convicted of an offense described in IC 20-28-5-8. The association may, after holding a hearing on the matter, reinstate the accreditation of an individual whose accreditation has been revoked by the association if the individual’s conviction has been reversed, vacated, or set aside on appeal.

(e) Nothing in this section shall be construed to prohibit the association from revoking a coaching accreditation or otherwise imposing any other form of discipline for misconduct not described in IC 20-28-5-7, IC 20-28-5-7(a)(1), IC 20-28-5-7(a)(2), or IC 20-28-5-8.

(f) The:
(1) association or its employees;
(2) department or its employees; or
(3) school corporation, charter high school, or nonpublic high school with at least one (1) employee or its employees;

are immune from civil liability for any act done or omitted under this section or section 9 of this chapter unless the action constitutes gross negligence or willful or wanton misconduct.

SECTION 4. IC 20-28-5-7, AS AMENDED BY P.L.43-2021, SECTION 87, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 7. (a) On the written recommendation of the
secretary of education, the department may suspend or revoke a license for:

(1) immorality;
(2) misconduct in office;
(3) incompetency; or
(4) willful neglect of duty.

For each suspension or revocation, the department shall comply with IC 4-21.5-3.

(b) A teacher, principal, or superintendent who:
(1) willfully;
(2) knowingly; and
(3) without probable cause;
makes a false claim in a complaint under IC 20-22.5-5 is considered to have committed misconduct in office under subsection (a).

(c) The department shall revoke the license of a teacher, principal, or superintendent who is found to have:
(1) willfully; and
(2) knowingly;
committed a violation under IC 20-22.5.

SECTION 5. IC 20-31-4.1-8.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 8.5. The state board may revoke the performance based accreditation of a school corporation or applicable school (as defined in IC 20-22.5-2-1) after consideration of a final order issued by the department under IC 20-22.5-5-3.