

HOUSE BILL No. 1389

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-22.5; IC 20-30-5-17.

Synopsis: Various education matters. Defines a "qualified school". Provides that a student shall not be required to participate in a personal analysis, an evaluation, or a survey that is established or administered by: (1) a school corporation; (2) a school; (3) the department of education (department); or (4) a third party vendor of a school corporation, a school, or the department; without the prior consent of the student if the student is an adult or an emancipated minor or the prior written consent of the student's parent if the student is an unemancipated minor. (Current law provides that a student shall not be required to participate in a personal analysis, an evaluation, or a survey that is not directly related to academic instruction and that reveals or attempts to affect the student's attitudes, habits, traits, opinions, beliefs, or feelings concerning certain matters without the prior consent of the student if the student is an adult or an emancipated minor or the prior written consent of the student's parent if the student is an unemancipated minor.) 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. Defines an "operator". Establishes online privacy protection requirements to
(Continued next page)

Effective: July 1, 2022.

Judy, Goodrich, Morris

January 13, 2022, read first time and referred to Committee on Education.



Digest Continued

protect the disclosure of certain information of a student of a school corporation or qualified school by an operator. Provides that a student shall not be required to participate in a personal analysis, evaluation, or survey that reveals or attempts to affect the student's attitudes, habits, traits, opinions, beliefs, or feelings without parental consent. Provides that before a school corporation or qualified school may provide or administer school psychology 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 school psychology services. Establishes procedures for a petitioner to file a complaint form alleging that 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 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.



Second Regular Session of the 122nd General Assembly (2022)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2021 Regular Session of the General Assembly.

HOUSE BILL No. 1389

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

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

1 SECTION 1. IC 20-22.5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2022]:
4 **ARTICLE 22.5. PROTECTIONS FOR STUDENTS, PARENTS,**
5 **AND EDUCATORS**
6 **Chapter 1. Definitions**
7 **Sec. 1. The following definitions apply throughout this article.**
8 **(1) "Covered information" refers to personally identifiable**
9 **information or material in any media or format that is any of**
10 **the following:**
11 **(A) Created by or provided to an operator by a student, or**
12 **the student's parent, in the course of the student's or**
13 **parent's use of the operator's site, service, or application**
14 **for K-12 school purposes.**
15 **(B) Created by or provided to an operator by an employee**
16 **or agent of a K-12 school or local school administrative**
17 **unit for K-12 school purposes.**



1 (C) Gathered by an operator through the operation of a
 2 site, service, or application for K-12 school purposes and
 3 that personally identifies a student, including, but not
 4 limited to, the following:

5 (i) Information in the student's educational record or
 6 electronic mail.

7 (ii) First and last name.

8 (iii) Home address.

9 (iv) Telephone number.

10 (v) Electronic mail address.

11 (vi) Other information that allows physical or online
 12 contact.

13 (vii) Discipline records.

14 (viii) Test results.

15 (ix) Special education data.

16 (x) Juvenile dependency records.

17 (xi) Grades.

18 (xii) Evaluations.

19 (xiii) Criminal records.

20 (xiv) Medical records.

21 (xv) Health records.

22 (xvi) Social Security number.

23 (xvii) Biometric information.

24 (xviii) Disabilities.

25 (xix) Socioeconomic information.

26 (xx) Food purchases.

27 (xxi) Political affiliations.

28 (xxii) Religious information.

29 (xxiii) Text messages.

30 (xxiv) Documents.

31 (xxv) Student identifiers.

32 (xxvi) Search activity.

33 (xxvii) Photos.

34 (xxviii) Voice recordings.

35 (xxix) Geolocation information.

36 (2) "Educational activity" means a presentation, assembly,
 37 lecture, or any other educational activity or event that is:

38 (A) organized or facilitated by a school corporation or
 39 qualified school or an employee of the school corporation
 40 or qualified school; and

41 (B) conducted during instructional time (as defined in
 42 IC 20-30-2-1).



- 1 **The term does not include a student presentation.**
 2 **(3) "Educational activity presenter information" means the**
 3 **following:**
 4 **(A) The name of a presenter of an educational activity.**
 5 **(B) The name of the organization, if applicable, that the**
 6 **presenter of the educational activity represents.**
 7 **(4) "Interactive computer service" has the meaning set forth**
 8 **in 47 U.S.C. 230(f)(2).**
 9 **(5) "K-12 school" means:**
 10 **(A) a school corporation; or**
 11 **(B) a charter school.**
 12 **(6) "K-12 school purposes" means purposes that are directed**
 13 **by or that customarily take place at the direction of a K-12**
 14 **school, a teacher, a governing body, the department, or the**
 15 **state board or that aid in the administration of school**
 16 **activities, including, but not limited to, instruction in the**
 17 **classroom or at home, administrative activities, and**
 18 **collaboration between students, school personnel, or parents,**
 19 **or are for the use and benefit of the K-12 school.**
 20 **(7) "Learning material" means any material used for student**
 21 **instruction by a school corporation or qualified school,**
 22 **including the following:**
 23 **(A) Textbooks and other printed materials.**
 24 **(B) Audiovisual materials.**
 25 **(C) Materials in electronic or digital formats, including**
 26 **materials accessible through the Internet.**
 27 **(D) All materials to be presented or provided to students in**
 28 **connection with an educational activity.**
 29 **The term includes a lesson plan, a syllabus, and any materials**
 30 **that contain curriculum content. The term does not include an**
 31 **academic test, quiz, or scoring keys.**
 32 **(8) "Operator" means, to the extent that it is operating in this**
 33 **capacity, the operator of an Internet web site, online service,**
 34 **online application, or mobile application with actual**
 35 **knowledge that the web site, service, or application is used**
 36 **primarily for K-12 school purposes and was designed and**
 37 **marketed for K-12 school purposes. The term does not include**
 38 **a K-12 school or governing body (or the equivalent for a**
 39 **charter school) that operates an Internet web site, online**
 40 **service, online application, or mobile application for that K-12**
 41 **school's or governing body's (or the equivalent for a charter**
 42 **school) own K-12 school purposes.**



- 1 **(9) "Protected right petitioner" means:**
 2 **(A) a parent or an emancipated minor student; or**
 3 **(B) a school employee.**
 4 **(10) "Qualified school" means the following:**
 5 **(A) A school maintained by a school corporation.**
 6 **(B) A charter school.**
 7 **(C) A laboratory school established under IC 20-24.5-2.**
 8 **(D) The Indiana School for the Blind and Visually**
 9 **Impaired established by IC 20-21-2-1.**
 10 **(E) The Indiana School for the Deaf established by**
 11 **IC 20-22-2-1.**
 12 **(11) "School psychology" has the meaning set forth in**
 13 **IC 20-28-1-11.**
 14 **(12) "Subcontractor" refers to an entity providing a service**
 15 **to an operator under contract and on its behalf to further a**
 16 **K-12 school purpose.**
 17 **(13) "Targeted advertising" means presenting an**
 18 **advertisement to a student where the advertisement is selected**
 19 **based on information obtained or inferred over time from**
 20 **that student's online behavior, use of applications, or covered**
 21 **information. The term does not include advertising to a**
 22 **student at an online location based upon that student's**
 23 **current visit to that location, or in response to that student's**
 24 **request for information or feedback, without the retention of**
 25 **that student's online activities or requests over time for the**
 26 **purpose of targeting subsequent ads.**
 27 **Chapter 2. Prohibited Curriculum and Practices**
 28 **Sec. 1. (a) It is hereby declared to be the policy of the state of**
 29 **Indiana to prohibit discrimination on the basis of race or sex in the**
 30 **form of bias, stereotyping, scapegoating, classification, or**
 31 **categorical assignment of traits, morals, values, or characteristics**
 32 **based solely on race or sex. School corporations and qualified**
 33 **schools are prohibited from engaging in race based or sex based**
 34 **discriminatory acts by using methods described in subsection (b),**
 35 **which result in treating individuals differently on the basis of race**
 36 **or sex or in the creation of a hostile environment.**
 37 **(b) A school corporation or qualified school may not include or**
 38 **promote the following concepts as part of a course, or allow**
 39 **teachers or other employees of the school corporation or qualified**
 40 **school to use supplemental instructional materials that include or**
 41 **promote the following concepts:**
 42 **(1) One (1) race or sex is inherently superior to another race**



- 1 or sex.
- 2 (2) An individual, by virtue of the individual's race or sex, is
- 3 inherently privileged, racist, sexist, or oppressive, whether
- 4 consciously or subconsciously.
- 5 (3) An individual should be discriminated against or receive
- 6 adverse treatment because of the individual's race or sex.
- 7 (4) Members of one (1) race or sex cannot and should not
- 8 attempt to treat others without respect to race or sex.
- 9 (5) An individual's moral character is determined by the
- 10 individual's race or sex.
- 11 (6) An individual, by virtue of the individual's race or sex,
- 12 bears responsibility for actions committed in the past by other
- 13 members of the same race or sex.
- 14 (7) An individual should feel discomfort, guilt, or anguish or
- 15 another form of psychological distress solely because of the
- 16 individual's race or sex.
- 17 (8) Meritocracy or traits such as hard work ethic are racist or
- 18 sexist, or designed by a particular race or sex to oppress
- 19 members of another race or sex.
- 20 (9) Indiana or the United States was founded as a racist or
- 21 sexist state or nation and is fundamentally or irredeemably
- 22 racist or sexist.
- 23 (c) Notwithstanding subsection (b), this section does not prohibit
- 24 a school corporation or qualified school from including, as part of
- 25 a course, or from allowing teachers or other employees of the
- 26 school corporation or qualified school to use, supplemental
- 27 instructional materials that provide the following:
- 28 (1) The history of an ethnic group.
- 29 (2) The impartial discussion of controversial aspects of
- 30 history.
- 31 (3) The impartial instruction on the historical oppression of a
- 32 particular group of people based on race, ethnicity, class,
- 33 nationality, religion, or geographic region.
- 34 (4) Historical documents relevant to topics described in
- 35 subdivisions (1) through (3).
- 36 (d) Nothing in this section may be construed to prohibit the
- 37 required collection or reporting of demographic data by a school
- 38 corporation or qualified school.
- 39 **Sec. 2. A school corporation or qualified school may not do the**
- 40 **following:**
- 41 (1) Provide, contract to provide, offer, or sponsor any course
- 42 that includes, incorporates, or is based on practices prohibited



- 1 under this chapter.
- 2 (2) Use money, property, assets, or resources for a purpose
- 3 that includes, incorporates, or is based on practices prohibited
- 4 under this chapter.
- 5 (3) Adopt programs or use curricular material, instructional
- 6 material, curriculum, classroom assignments, orientation,
- 7 interventions, or counseling that include, incorporate, or are
- 8 based on practices prohibited under this chapter.
- 9 (4) Execute a contract or agreement with an internal or
- 10 external entity or person to provide services, training,
- 11 professional development, or any other assistance that
- 12 includes or incorporates practices prohibited under this
- 13 chapter.
- 14 (5) Receive or apply to receive money that requires, as a
- 15 condition of receipt of the money, the adoption of a course,
- 16 policy, curriculum, or any other instructional material that
- 17 includes, incorporates, or is based on practices prohibited
- 18 under this chapter.
- 19 (6) Adopt diversity, equity, or inclusion plans or training for
- 20 students or school employees that includes, incorporates, or
- 21 is based on practices prohibited under this chapter. A
- 22 diversity officer at a school corporation, qualified school, or
- 23 educational program is prohibited from providing any service
- 24 or performing any duty that includes, incorporates, or is
- 25 based on practices prohibited under this chapter.
- 26 (7) Adopt policies, including grading or admissions policies, or
- 27 providing any other benefit or service that applies to students
- 28 or school employees differently on the basis of race or sex.
- 29 This includes segregated classes, programs, training sessions,
- 30 extracurricular activities, or affinity groups.
- 31 **Sec. 3. Neither the state board nor the department may do the**
- 32 **following:**
- 33 (1) Establish or mandate any state standard or adopt any rule
- 34 under IC 4-22-2 that includes, incorporates, or is based on
- 35 practices prohibited under this chapter.
- 36 (2) Provide:
- 37 (A) resources;
- 38 (B) instructional support; or
- 39 (C) courses;
- 40 that include, incorporate, or are based on practices prohibited
- 41 under this chapter. This prohibition includes executing
- 42 contracts or agreements with an external entity or individual



1 to provide services, courses, or any other assistance that
 2 includes, incorporates, or is based on practices prohibited
 3 under this chapter.

4 (3) Receive or apply to receive money that requires, as a
 5 condition of receipt of the money, the adoption of programs,
 6 policies, curriculum, or any other learning material that
 7 includes, incorporates, or is based on practices prohibited
 8 under this chapter.

9 Sec. 4. (a) If a state agency (as defined in IC 4-13-1.4-2), a school
 10 corporation, or a qualified school, or an employee of a state agency,
 11 school corporation, or qualified school, requires, makes part of a
 12 course, awards a grade or course credit, including extra credit, or
 13 otherwise incentivizes a student to engage in either:

14 (1) political activism, lobbying, or efforts to persuade
 15 members of the legislative or executive branch at the federal,
 16 state, or local level; or

17 (2) participation in any internship, practicum, or similar
 18 activity involving social or public policy advocacy;

19 the state agency, school corporation, or qualified school, or
 20 employee of the state agency, school corporation, or qualified
 21 school, shall not require the student to adopt, affirm, affiliate, or
 22 take any action that would result in favoring any particular
 23 position on the issue or issues involved.

24 (b) It is the duty of the state agency (as defined in IC 4-13-1.4-2),
 25 school corporation, or qualified school, or an employee of the state
 26 agency, school corporation, or qualified school to remain impartial
 27 in activities described in subsection (a)(1) and (a)(2), and to ensure
 28 that students are free to express their own beliefs and viewpoints
 29 concerning activities described in subsection (a)(1) and (a)(2)
 30 without discrimination.

31 Sec. 5. (a) This section does not apply to an academic test or
 32 assessment.

33 (b) If a school corporation or qualified school uses a third party
 34 vendor in providing a personal analysis, evaluation, or survey that
 35 reveals, identifies, collects, maintains, or attempts to affect a
 36 student's attitudes, habits, traits, opinions, beliefs, or feelings, the
 37 third party vendor and the school corporation or qualified school
 38 may not collect or maintain the responses to or results of the
 39 analysis, evaluation, or survey in a manner that would identify the
 40 responses or results of an individual student.

41 Sec. 6. (a) Before a school corporation or charter school may
 42 provide or administer school psychology services to a student, the



1 school must provide the parent of the student or the student, if the
 2 student is an adult or an emancipated minor, with a written
 3 request for consent to provide or administer school psychology
 4 services. A consent form provided to a parent of a student or a
 5 student, if the student is an adult or an emancipated minor, under
 6 this subsection must accurately summarize the contents and nature
 7 of the school psychology services that will be provided to the
 8 student and indicate that a parent of a student or the adult or
 9 emancipated minor student has the right to review and inspect all
 10 materials related to the school psychology services to be provided
 11 to the student. The written consent form may be sent in an
 12 electronic format. The parent of the student or the student, if the
 13 student is an adult or an emancipated minor, may return the
 14 consent form indicating that the parent of the student or the adult
 15 or emancipated minor student consents to the provision or
 16 administration of school psychology services to the student. The
 17 school corporation or charter school may not provide school
 18 psychology services to a student if the parent of the student or the
 19 emancipated minor student does not provide written consent under
 20 this section.

21 (b) The department and the governing body shall give parents
 22 and students notice of their rights under this section.

23 (c) The governing body shall enforce this section.

24 **Chapter 3. Transparency**

25 **Sec. 1. (a) This section applies to a learning material or**
 26 **educational activity to which any of the following apply:**

27 (1) The learning material or educational activity is or is
 28 intended to be assigned, distributed, or otherwise presented
 29 to:

30 (A) a student in a course or class for which the student
 31 receives credit;

32 (B) a student if use of the learning material or
 33 participation in the educational activity is required by the
 34 school corporation or qualified school; or

35 (C) a student and at least a majority of students at a grade
 36 level are expected to use the learning material or
 37 participate in the educational activity.

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

41 (3) The learning material or educational activity is created by:
 42 (A) the department;



- 1 **(B) the governing body of a school corporation or qualified**
 2 **school; or**
 3 **(C) an employee of a school corporation or qualified**
 4 **school.**
- 5 **(b) Not later than July 30, 2022, and not later than June 30 each**
 6 **year thereafter, each qualified school shall post on the qualified**
 7 **school's Internet web site, in a manner accessible by the public, the**
 8 **following:**
- 9 **(1) Information concerning any learning material or**
 10 **educational activity that is or is intended to be used for**
 11 **student instruction by the qualified school in the immediately**
 12 **following school year, organized by grade level, teacher, and**
 13 **subject area. The information posted under this subdivision**
 14 **must include the following:**
- 15 **(A) The title and author, organization, or Internet web site**
 16 **associated with each learning material and educational**
 17 **activity.**
- 18 **(B) The full text or a copy of the learning material or**
 19 **educational activity. A qualified school is not required to**
 20 **include the full text or copy of learning material or an**
 21 **educational activity under this clause if the qualified school**
 22 **provides a link to an Internet web site that contains the full**
 23 **text or a copy of the learning material or educational**
 24 **activity.**
- 25 **(2) Any procedures or policies in effect for the documentation,**
 26 **review, or approval of learning materials or educational**
 27 **activities used for student instruction.**
- 28 **(c) Each qualified school shall:**
- 29 **(1) update the information described in subsection (b) at least**
 30 **one (1) time each semester; and**
- 31 **(2) post a notice on the qualified school's Internet web site**
 32 **that the information has been updated and the date on which**
 33 **the information was updated.**
- 34 **(d) This section may not be construed to require a qualified**
 35 **school to post learning material or information concerning an**
 36 **educational activity in a manner that would constitute an**
 37 **infringement of copyright under the federal Copyright Act (17**
 38 **U.S.C. 101 et seq.).**
- 39 **(e) The department shall:**
- 40 **(1) develop a model plan for presenting the information**
 41 **described in this section on a qualified school's Internet web**
 42 **site; and**



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

2 **Sec. 2. (a) Upon request of a parent of a student enrolled in a**
 3 **school corporation or qualified school, the school corporation or**
 4 **qualified school shall make available, in the manner prescribed in**
 5 **subsection (b), for inspection to the parent of the student:**

6 (1) learning material for the particular student; and

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

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

20 (1) by posting the learning material or educational activity
 21 presenter information on the school corporation's or qualified
 22 school's Internet web site;

23 (2) by providing the information to the parent of the student
 24 by electronic mail; or

25 (3) by delivering, through regular mail or hand delivery,
 26 photocopies of the learning material or educational activity
 27 presenter information. A school corporation or qualified
 28 school may charge a fee under this subdivision in accordance
 29 with IC 5-14-3-8.

30 **Sec. 3. Every teacher who teaches a class at a school corporation**
 31 **or qualified school shall provide a student's parent or an adult or**
 32 **emancipated minor student a syllabus for the particular class the**
 33 **teacher teaches within five (5) school days of the date that students**
 34 **start the school year.**

35 **Sec. 4. Within forty-five (45) days from the later of:**

36 (1) the first student school day of the school corporation or
 37 qualified school; or

38 (2) the date a student enrolls in a school corporation or
 39 qualified school;

40 the school corporation or qualified school shall notify, in a manner
 41 prescribed by the school corporation or qualified school, the
 42 student's parent or adult or emancipated minor student that



1 learning materials and educational activity presenter information
2 are available for inspection in the manner prescribed in this
3 chapter. The notification must include a copy of this chapter.

4 **Chapter 4. Student Online Privacy Protection**

5 **Sec. 1. An operator shall not knowingly do any of the following:**

6 (1) Engage in targeted advertising on the operator's site,
7 service, or application, or target advertising on any other site,
8 service, or application if the targeting of the advertising is
9 based on any information, including covered information and
10 persistent unique identifiers, that the operator has acquired
11 because of the use of that operator's site, service, or
12 application for K-12 school purposes.

13 (2) Use information, including persistent unique identifiers,
14 created or gathered by the operator's site, service, or
15 application, to amass a profile about a student except in
16 furtherance of K-12 school purposes. As used in this
17 subdivision, "amass a profile" does not include the collection
18 and retention of account information that remains under the
19 control of the student, the student's parent or guardian, or
20 K-12 school.

21 (3) Sell or rent a student's information, including covered
22 information. This subdivision does not apply to the purchase,
23 merger, or other type of acquisition of an operator by another
24 entity, if the operator or successor entity complies with this
25 section regarding previously acquired student information, or
26 to a nationally recognized college entrance exam provider if
27 the provider secures the express written consent of the parent
28 given in response to clear and conspicuous notice, solely to
29 provide access to employment, educational scholarships or
30 financial aid, and to postsecondary educational opportunities.

31 (4) Except as otherwise provided in section 5 of this chapter,
32 disclose covered information unless the disclosure is made for
33 the following purposes:

34 (A) In furtherance of the K-12 school purpose of the site,
35 service, or application, if the recipient of the covered
36 information disclosed under this clause does not further
37 disclose the information unless done to allow or improve
38 operability and functionality of the operator's site, service,
39 or application.

40 (B) To ensure legal and regulatory compliance or protect
41 against liability.

42 (C) To respond to or participate in the judicial process.



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(D) To protect the safety or integrity of users of the site or others or the security of the site, service, or application.

(E) To a third party for a school, educational, or employment purpose requested by the student or the student's parent or guardian, provided that information is required not to be used or further disclosed by the third party for any other purpose.

(F) To a subcontractor, if the operator contractually prohibits the subcontractor from using any covered information for any purpose other than providing the contracted service to or on behalf of the operator, prohibits the subcontractor from disclosing any covered information provided by the operator with subsequent third parties, and requires the subcontractor to implement and maintain reasonable security procedures and practices. This clause does not prohibit the operator's use of information for maintaining, developing, supporting, improving, or diagnosing the operator's site, service, or application.

Sec. 2. An operator shall do all of the following:

(1) Implement and maintain reasonable security procedures and practices appropriate to the nature of the covered information and protect that covered information from unauthorized access, destruction, use, modification, or disclosure.

(2) Delete a student's covered information within forty-five (45) days if the K-12 school or the governing body (or the equivalent for a charter school) requests deletion of covered information under the control of the K-12 school or the governing body (or the equivalent for a charter school), or the K-12 school or the governing body (or the equivalent for a charter school) notifies the operator of completion of services with that operator, unless a parent or adult or emancipated minor student provides express written consent given in response to clear and conspicuous notice to the maintenance of the covered information.

Sec. 3. An operator may use or disclose covered information of a student under the following circumstances:

(1) If other provisions of federal or state law require the operator to disclose the information and the operator complies with the requirements of federal and state law in protecting and disclosing that information.



- 1 **(2) As long as no covered information is used for advertising**
- 2 **or to amass a profile on the student for purposes other than**
- 3 **K-12 school purposes, for legitimate research purposes as**
- 4 **required by state or federal law and subject to the restrictions**
- 5 **under applicable state and federal law or as allowed by state**
- 6 **or federal law in furtherance of K-12 school purposes or**
- 7 **postsecondary educational purposes.**
- 8 **(3) To a K-12 school, the department, or the state board, for**
- 9 **K-12 school purposes, as permitted by state or federal law.**
- 10 **(4) At the direction of a K-12 school, department, or the state**
- 11 **board, for K-12 school purposes, as permitted by state or**
- 12 **federal law.**

13 **Sec. 4. This chapter does not prohibit an operator from doing**
 14 **any of the following:**

- 15 **(1) Using covered information that is not associated with an**
- 16 **identified student within the operator's site, service, or**
- 17 **application or other sites, services, or applications owned by**
- 18 **the operator to improve educational products.**
- 19 **(2) Using covered information that is not associated with an**
- 20 **identified student to demonstrate the effectiveness of the**
- 21 **operator's products or services, including in their marketing.**
- 22 **(3) Sharing covered information that is not associated with an**
- 23 **identified student for the development and improvement of**
- 24 **educational sites, services, or applications.**
- 25 **(4) Using recommendation engines to recommend to a student**
- 26 **either of the following:**
- 27 **(A) Additional content relating to an educational, other**
- 28 **learning, or employment opportunity purpose within the**
- 29 **operator's site, service, or application if the**
- 30 **recommendation is not determined in whole or in part by**
- 31 **payment or other consideration from a third party.**
- 32 **(B) Additional services relating to an educational, other**
- 33 **learning, or employment opportunity purpose within the**
- 34 **operator's site, service, or application if the**
- 35 **recommendation is not determined in whole or in part by**
- 36 **payment or other consideration from a third party.**
- 37 **(5) Responding to a student's request for information or for**
- 38 **feedback to help improve learning without the information or**
- 39 **response being determined in whole or in part by payment or**
- 40 **other consideration from a third party.**

41 **Sec. 5. This chapter does not do any of the following:**

- 42 **(1) Limit the authority of a law enforcement agency to obtain**



1 any content or information from an operator as authorized by
2 law or under a court order.

3 (2) Limit the ability of an operator to use student data,
4 including covered information, for adaptive learning or
5 customized student learning purposes.

6 (3) Apply to general audience Internet web sites, general
7 audience online services, general audience online applications,
8 or general audience mobile applications, even if login
9 credentials created for an operator's site, service, or
10 application may be used to access those general audience sites,
11 services, or applications.

12 (4) Limit service providers from providing Internet
13 connectivity to schools or students and their families.

14 (5) Prohibit an operator of an Internet web site, online
15 service, online application, or mobile application from
16 marketing educational products directly to parents if the
17 marketing did not result from the use of covered information
18 obtained by the operator through the provision of services
19 covered under this chapter.

20 (6) Impose a duty upon a provider of an electronic store,
21 gateway, marketplace, or other means of purchasing or
22 downloading software or applications to review or enforce
23 compliance with this section on those applications or software.

24 (7) Impose a duty upon a provider of an interactive computer
25 service to review or enforce compliance with this section by
26 third party content providers.

27 (8) Prohibit students from downloading, exporting,
28 transferring, saving, or maintaining their own student data or
29 documents.

30 **Sec. 6.** A parent, K-12 school, teacher, member of a governing
31 body (or the equivalent for a charter school), department, or the
32 state board may report an alleged violation of section 1, 2, or 3 of
33 this chapter to the attorney general. The attorney general, upon
34 ascertaining that an operator has violated section 1, 2, or 3 of this
35 chapter, may bring a civil action seeking injunctive and other
36 equitable relief.

37 **Sec. 7.** Each school corporation or qualified school shall post
38 any contract with an operator on the school corporation's or
39 qualified school's Internet web site.

40 **Chapter 5. Compliance**

41 **Sec. 1. (a)** The department shall develop a complaint form to be
42 used by a protected right petitioner to file a complaint with a



1 school corporation or qualified school in the manner described in
 2 section 2 of this chapter alleging a violation under this article. The
 3 complaint form must contain the following information:

- 4 (1) The date of the complaint.
 5 (2) The date or dates that the alleged violation under this
 6 article occurred.
 7 (3) A detailed description of the alleged violation under this
 8 article.
 9 (4) Information necessary to enable the school corporation or
 10 qualified school to investigate the alleged violation under this
 11 article.
 12 (5) The option for the protected right petitioner to provide the
 13 identification of witnesses the school corporation or qualified
 14 school may interview, if applicable.

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

20 Sec. 2. (a) A protected right petitioner may file a complaint form
 21 developed by the department under section 1 of this chapter with
 22 a school corporation or qualified school alleging a violation of this
 23 article. The school corporation or qualified school shall investigate
 24 each complaint to determine whether a violation occurred.

25 (b) Each school corporation shall designate at least one (1)
 26 employee to respond to complaints under this chapter. Every
 27 qualified school, other than a qualified school that is part of a
 28 school corporation, shall designate at least one (1) employee to
 29 review complaints under this chapter submitted to the particular
 30 qualified school. Each school corporation or qualified school shall
 31 include contact information including the:

- 32 (1) name;
 33 (2) address;
 34 (3) telephone number; and
 35 (4) electronic mail address;

36 for the designated individual on the school corporation's or
 37 qualified school's Internet web site.

38 (c) Upon receipt of a complaint form, the school corporation or
 39 qualified school shall acknowledge receipt of the complaint form
 40 not later than three (3) business days after receipt of the complaint
 41 form. The school corporation or qualified school shall investigate
 42 the complaint within ten (10) business days after receipt of the



1 complaint form and make findings that shall be sent by mail to the
 2 protected right petitioner. If the school corporation or qualified
 3 school finds:

4 (1) that a violation under this article occurred, the findings
 5 must include a description of how the school corporation or
 6 qualified school will remedy the violation; or

7 (2) that a violation under this article did not occur, the
 8 findings must include an explanation of the school
 9 corporation's or qualified school's findings.

10 The school corporation or qualified school shall provide the
 11 protected right petitioner notice of the protected right petitioner's
 12 right to appeal and the deadline to appeal the findings under
 13 section 3 of this chapter with a copy of the findings mailed to the
 14 protected right petitioner under this subsection.

15 (d) Nothing in this section may be construed to require a school
 16 corporation or qualified school to disclose personal identifiable
 17 information of a student.

18 (e) The school corporation or qualified school shall send a copy
 19 of the findings made under subsection (c) to the attorney general
 20 for review under section 4 of this chapter if the protected right
 21 petitioner does not appeal the findings under section 3 of this
 22 chapter. The school corporation or qualified school shall submit a
 23 copy of the school corporation's or qualified school's findings to the
 24 attorney general not later than five (5) business days after the date
 25 required for an appeal to be considered timely under section 3 of
 26 this chapter.

27 Sec. 3. (a) A protected right petitioner may appeal a school
 28 corporation's or qualified school's findings made under section 2
 29 of this chapter if the protected right petitioner believes that the
 30 school corporation or qualified school has incorrectly refused to
 31 investigate a complaint form or the protected right petitioner has
 32 evidence that a school corporation or qualified school has reached
 33 an incorrect determination under section 2 of this chapter. The
 34 appeal must be submitted to the department by the protected right
 35 petitioner not later than thirty (30) days after the date of the school
 36 corporation's or qualified school's findings and notice of the
 37 protected right petitioner's right to appeal were mailed to the
 38 protected right petitioner under section 2 of this chapter. The
 39 appeal must be submitted to the department on a form prescribed
 40 by the department. The form shall be available on the
 41 department's Internet web site, and the school corporation or
 42 qualified school must maintain a link to the form on the school



1 corporation's or qualified school's Internet web site.

2 (b) The department shall send notice to the school corporation
3 or qualified school of an appeal submitted under this section not
4 later than three (3) business days after receipt of the appeal.

5 (c) The department shall appoint an administrative law judge
6 and conduct adjudicative proceedings under this section in
7 accordance with IC 4-21.5-3. An administrative law judge shall
8 issue a final order in accordance with IC 4-21.5-3-27.

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

12 (1) Require the school corporation or qualified school to
13 remedy the violation under this article.

14 (2) Withhold state tuition support under IC 20-43 for the
15 school corporation or qualified school until the violation is
16 remedied in accordance with the final order.

17 (3) Include a recommendation for the attorney general to
18 assess a civil penalty in accordance with section 4 of this
19 chapter.

20 A school corporation or qualified school shall comply with a final
21 order issued by the department.

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

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

26 (1) the findings submitted by a school corporation or qualified
27 school under section 2 of this chapter; or

28 (2) a final order submitted by the department under section
29 3 of this chapter;

30 the attorney general or the attorney general's designee shall review
31 the findings of the school corporation, qualified school, or
32 department. The attorney general may request additional
33 information from the school corporation, qualified school, or
34 department necessary to review the findings or final order.

35 (b) If, after conducting the review described in subsection (a),
36 the attorney general determines that a violation occurred, the
37 attorney general may assess a civil penalty against the school
38 corporation or qualified school in an amount determined under
39 subsection (c). A civil penalty assessed under this subsection must
40 be deposited in the Indiana secured school fund established by
41 IC 10-21-1-2.

42 (c) The amount of a civil penalty under subsection (b) is as



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follows:

(1) For a first violation, at least one thousand dollars (\$1,000) but less than five thousand dollars (\$5,000) for each student 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 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 who is the subject of a violation under this section.

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

(b) A court may award the following to a protected right 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 qualified school may not take any retaliatory action against any protected right petitioner, or any other person related to or associated with the protected right petitioner, who exercises any right under this article.

(b) A school corporation or qualified school may not take any retaliatory action against any protected right petitioner, or any other person related to or associated with the protected right 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 shall adopt rules under IC 4-22-2 to implement this article.

SECTION 2. IC 20-30-5-17, AS AMENDED BY P.L.154-2018, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: Sec. 17. (a) Each school corporation shall make



1 available for inspection by the parent of a student any instructional
 2 materials, including teachers' manuals, curricular materials, films or
 3 other video materials, tapes, and other materials, used in connection
 4 with:

5 (1) a personal analysis, an evaluation, or a survey described in
 6 subsection (b); or

7 (2) instruction on human sexuality.

8 **(b) This subsection does not apply to an academic test or**
 9 **assessment.** A student shall not be required to participate in a personal
 10 analysis, an evaluation, or a survey that is **not directly related to**
 11 **academic instruction and that reveals or attempts to affect the student's**
 12 **attitudes, habits, traits, opinions, beliefs, or feelings concerning:**

13 (1) political affiliations;

14 (2) religious beliefs or practices;

15 (3) mental or psychological conditions that may embarrass the
 16 student or the student's family;

17 (4) sexual behavior or attitudes;

18 (5) illegal, antisocial, self-incriminating, or demeaning behavior;

19 (6) critical appraisals of other individuals with whom the student
 20 has a close family relationship;

21 (7) legally recognized privileged or confidential relationships;
 22 including a relationship with a lawyer, minister, or physician; or

23 (8) income (except as required by law to determine eligibility for
 24 participation in a program or for receiving financial assistance
 25 under a program);

26 **established or administered by:**

27 **(1) a school corporation;**

28 **(2) a school;**

29 **(3) the department; or**

30 **(4) a third party vendor of a school corporation, a school, or**
 31 **the department;**

32 without the prior consent of the student if the student is an adult or an
 33 emancipated minor or the prior written consent of the student's parent
 34 if the student is an unemancipated minor. A parental consent form for
 35 a personal analysis, an evaluation, or a survey described in this
 36 subsection shall accurately reflect the contents and nature of the
 37 personal analysis, evaluation, or survey.

38 (c) Before a school may provide a student with instruction on human
 39 sexuality, the school must provide the parent of the student or the
 40 student, if the student is an adult or an emancipated minor, with a
 41 written request for consent of instruction. A consent form provided to
 42 a parent of a student or a student under this subsection must accurately



1 summarize the contents and nature of the instruction on human
 2 sexuality that will be provided to the student and indicate that a parent
 3 of a student or an adult or emancipated minor student has the right to
 4 review and inspect all materials related to the instruction on human
 5 sexuality. The written consent form may be sent in an electronic
 6 format. The parent of the student or the student, if the student is an
 7 adult or an emancipated minor, may return the consent form indicating
 8 that the parent of the student or the adult or emancipated student:

- 9 (1) consents to the instruction; or
 10 (2) declines instruction.

11 If a student does not participate in the instruction on human sexuality,
 12 the school shall provide the student with alternative academic
 13 instruction during the same time frame that the instruction on human
 14 sexuality is provided.

15 (d) If the parent of the student or the student, if the student is an
 16 adult or an emancipated minor, does not respond to the written request
 17 provided by the school under subsection (c) within twenty-one (21)
 18 calendar days after receiving the request under subsection (c), the
 19 school shall provide the parent of the student, or the student, if the
 20 student is an adult or an emancipated minor, a written notice requesting
 21 that the parent of the student, or the student, if the student is an adult
 22 or an emancipated minor, indicate, in a manner prescribed by the
 23 school, whether the parent of the student or the adult or emancipated
 24 student:

- 25 (1) consents to the instruction; or
 26 (2) declines instruction.

27 A notice provided to a parent of a student or a student under this
 28 subsection must accurately summarize the contents and nature of the
 29 instruction on human sexuality that will be provided to the student and
 30 indicate that a parent of a student or an adult or emancipated minor
 31 student has the right to review and inspect all materials related to the
 32 instruction on human sexuality. The notice may be sent in an electronic
 33 format. If the school does not receive a response within ten (10) days
 34 after the notice, the student will receive the instruction on human
 35 sexuality unless the parent or the adult or emancipated student
 36 subsequently opts out of the instruction for the student.

37 (e) The department and the governing body shall give parents and
 38 students notice of their rights under this section.

39 (f) The governing body shall enforce this section.

