

SENATE BILL No. 39

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-24; IC 20-24.5-3-5; IC 20-30-16-6; IC 20-33-1; IC 20-42-3-10; IC 20-51-4-3.

Synopsis: Equal educational opportunity. Extends certain antidiscrimination educational rights statutes to prohibit discrimination based on sexual orientation and gender identity.

Effective: July 1, 2023.

Ford J.D.

January 9, 2023, read first time and referred to Committee on Education and Career Development.



First Regular Session of the 123rd General Assembly (2023)

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 2022 Regular Session of the General Assembly.

SENATE BILL No. 39

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 20-24-2-2, AS ADDED BY P.L.1-2005, SECTION
2 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1,
3 2023]: Sec. 2. A charter school is subject to all federal and state laws
4 and constitutional provisions that prohibit discrimination on the basis
5 of the following:

- 6 (1) Disability.
- 7 (2) Race.
- 8 (3) Color.
- 9 (4) Gender.
- 10 (5) National origin.
- 11 (6) Religion.
- 12 (7) Ancestry.
- 13 **(8) Sexual orientation.**
- 14 **(9) Gender identity.**

15 SECTION 2. IC 20-24-5-5, AS AMENDED BY P.L.216-2021,
16 SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2023]: Sec. 5. (a) Except as provided in subsections (b), (c),



1 (d), (e), (f), and (g) and section 4.5 of this chapter, a charter school
2 must enroll any eligible student who submits a timely application for
3 enrollment.

4 (b) This subsection applies if the number of applications for a
5 program, class, grade level, or building exceeds the capacity of the
6 program, class, grade level, or building. If a charter school receives a
7 greater number of applications than there are spaces for students, each
8 timely applicant must be given an equal chance of admission. The
9 organizer must determine which of the applicants will be admitted to
10 the charter school or the program, class, grade level, or building by
11 random drawing in a public meeting, with each timely applicant limited
12 to one (1) entry in the drawing. However, the organizer of a charter
13 school located in a county with a consolidated city shall determine
14 which of the applicants will be admitted to the charter school or the
15 program, class, grade level, or building by using a publicly verifiable
16 random selection process.

17 (c) A charter school may limit new admissions to the charter school
18 to:

- 19 (1) ensure that a student who attends the charter school during a
20 school year may continue to attend the charter school in
21 subsequent years;
- 22 (2) ensure that a student who attends a charter school during a
23 school year may continue to attend a different charter school held
24 by the same organizer in subsequent years;
- 25 (3) allow the siblings of a student alumnus or a current student
26 who attends a charter school or a charter school held by the same
27 organizer to attend the same charter school the student is
28 attending or the student alumnus attended;
- 29 (4) allow preschool students who attend a Level 3 or Level 4
30 Paths to QUALITY program preschool to attend kindergarten at
31 a charter school if the charter school and the preschool provider
32 have entered into an agreement to share services or facilities;
- 33 (5) allow each student who qualifies for free or reduced price
34 lunch under the national school lunch program to receive
35 preference for admission to a charter school if the preference is
36 specifically provided for in the charter school's charter and is
37 approved by the authorizer; and
- 38 (6) allow each student who attends a charter school that is
39 co-located with the charter school to receive preference for
40 admission to the charter school if the preference is specifically
41 provided for in the charter school's charter and is approved by the
42 charter school's authorizer.



1 (d) This subsection applies to an existing school that converts to a
 2 charter school under IC 20-24-11. During the school year in which the
 3 existing school converts to a charter school, the charter school may
 4 limit admission to:

- 5 (1) those students who were enrolled in the charter school on the
 6 date of the conversion; and
 7 (2) siblings of students described in subdivision (1).

8 (e) A charter school may give enrollment preference to children of
 9 the charter school's founders, governing body members, and charter
 10 school employees, as long as the enrollment preference under this
 11 subsection is not given to more than ten percent (10%) of the charter
 12 school's total population.

13 (f) A charter school may give enrollment preference to children who
 14 attend another charter school that is closed or non-renewed under
 15 IC 20-24-4-3 or IC 20-24-9-4.

16 (g) A charter school may not suspend or expel a charter school
 17 student or otherwise request a charter school student to transfer to
 18 another school on the basis of the following:

- 19 (1) Disability.
 20 (2) Race.
 21 (3) Color.
 22 (4) Gender.
 23 (5) National origin.
 24 (6) Religion.
 25 (7) Ancestry.
 26 **(8) Sexual orientation.**
 27 **(9) Gender identity.**

28 A charter school student may be expelled or suspended only in a
 29 manner consistent with discipline rules established under IC 20-24-5.5.

30 SECTION 3. IC 20-24.5-3-5, AS ADDED BY P.L.2-2007,
 31 SECTION 209, IS AMENDED TO READ AS FOLLOWS
 32 [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) A student who applies for
 33 admission to the academy must:

- 34 (1) be eligible to attend a public school in Indiana;
 35 (2) demonstrate exceptional intellectual ability; and
 36 (3) demonstrate a commitment to scholarship.

37 (b) A student shall be admitted without regard to sex, **sexual**
 38 **orientation, gender identity**, race, religion, creed, national origin, or
 39 household income.

40 SECTION 4. IC 20-30-16-6, AS AMENDED BY P.L.200-2021,
 41 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2023]: Sec. 6. (a) Before June 30, 2018, the department shall



- 1 establish:
- 2 (1) an authorization process for course providers; and
- 3 (2) a review process for approval of course access program
- 4 courses, which must be aligned to Indiana academic standards.
- 5 This subsection expires June 30, 2021.
- 6 (b) Not later than June 30, 2021, the department shall implement the
- 7 course access program in the manner prescribed by the state board. The
- 8 state board shall establish:
- 9 (1) requirements:
- 10 (A) that a course provider must meet to be eligible for
- 11 authorization by the department under this chapter;
- 12 (B) that a course access program course must meet to be
- 13 eligible for approval by the department under this chapter; and
- 14 (C) for a course provider to appeal a decision by the
- 15 department denying or revoking:
- 16 (i) authorization of a course provider; or
- 17 (ii) approval of a particular course access program course;
- 18 and
- 19 (2) a period of time each calendar year in which the department
- 20 shall accept applications for course provider authorization and
- 21 approval of course access program courses.
- 22 (c) The department shall:
- 23 (1) register and authorize course providers;
- 24 (2) provide advertising for the course access program; and
- 25 (3) monitor course access program courses and course providers
- 26 to ensure compliance with the terms of the course access program
- 27 course's approval and course provider's authorization;
- 28 in accordance with requirements established by the state board.
- 29 (d) A course provider may apply for authorization or submit course
- 30 access program courses for approval to the department in a manner
- 31 prescribed by the state board during the time period established under
- 32 subsection (b)(2).
- 33 (e) A school corporation may be authorized as a course provider if
- 34 the school corporation meets requirements established by the state
- 35 board to be eligible for authorization as a course provider under this
- 36 chapter.
- 37 (f) Subject to section 7 of this chapter, if a course provider or course
- 38 access program course meets the requirements established by the state
- 39 board under subsection (b), the department shall authorize the course
- 40 provider or approve the course access program course, whichever is
- 41 applicable.
- 42 (g) If the department denies authorization to a course provider or



1 denies approval of a course access program course of a course
2 provider, the course provider may appeal the denial to the state board.

3 (h) A course provider authorized by the department shall ensure that
4 each course access program course is accessible to students of all
5 abilities, and may not discriminate on the basis of race, creed, color,
6 **sexual orientation, gender identity**, or national origin.

7 (i) A course provider authorized by the department shall comply
8 with the privacy provisions of federal law.

9 SECTION 5. IC 20-33-1-1, AS AMENDED BY P.L.3-2008,
10 SECTION 118, IS AMENDED TO READ AS FOLLOWS
11 [EFFECTIVE JULY 1, 2023]: Sec. 1. The following is the public
12 policy of the state:

13 (1) To provide:

14 (A) equal;

15 (B) nonsegregated; and

16 (C) nondiscriminatory;

17 educational opportunities and facilities for all, regardless of race,
18 creed, national origin, color, ~~or~~ sex, **sexual orientation, or**
19 **gender identity**.

20 (2) To provide and furnish public schools open equally to all, and
21 prohibited and denied to none because of race, creed, color, ~~or~~
22 national origin, **sexual orientation, or gender identity**.

23 (3) To reaffirm the principles of:

24 (A) the Bill of Rights;

25 (B) civil rights; and

26 (C) the Constitution of the State of Indiana.

27 (4) To provide a uniform democratic system of public school
28 education to the state and the citizens of Indiana.

29 (5) To:

30 (A) abolish;

31 (B) eliminate; and

32 (C) prohibit;

33 segregated and separate schools or school districts on the basis of
34 race, creed, ~~or~~ color, **sexual orientation, or gender identity**.

35 (6) To eliminate and prohibit:

36 (A) segregation;

37 (B) separation; and

38 (C) discrimination;

39 on the basis of race, creed, ~~or~~ color, **sexual orientation, or**
40 **gender identity** in public schools.

41 SECTION 6. IC 20-33-1-3, AS AMENDED BY P.L.2-2007,
42 SECTION 226, IS AMENDED TO READ AS FOLLOWS



1 [EFFECTIVE JULY 1, 2023]: Sec. 3. (a) The governing body of a
 2 school corporation and the board of trustees of a state educational
 3 institution may not build or erect, establish, maintain, continue, or
 4 permit any segregated or separate public schools, including any public
 5 school departments or divisions on the basis of race, color, creed,
 6 **sexual orientation, gender identity**, or national origin of pupils or
 7 students.

8 (b) The officials described in subsection (a) may take any
 9 affirmative actions that are reasonable, feasible, and practical to effect
 10 greater integration and to reduce or prevent segregation or separation
 11 of races in public schools for whatever cause, including:

- 12 (1) site selection; or
- 13 (2) revision of:
 - 14 (A) school districts;
 - 15 (B) curricula; or
 - 16 (C) enrollment policies;

17 to implement equalization of educational opportunity for all.

18 (c) A school corporation shall review the school corporation's
 19 programs to determine if the school corporation's practices of:

- 20 (1) separating students by ability;
- 21 (2) placing students into educational tracks; or
- 22 (3) using test results to screen students;

23 have the effect of systematically separating students by race, color,
 24 creed, **sexual orientation, gender identity**, national origin, or
 25 socioeconomic class.

26 SECTION 7. IC 20-33-1-4, AS AMENDED BY P.L.2-2007,
 27 SECTION 227, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2023]: Sec. 4. (a) A student is entitled to be
 29 admitted and enrolled in a public school in the school corporation in
 30 which the student resides without regard to race, creed, color, **sexual**
 31 **orientation, gender identity**, socioeconomic class, or national origin.

32 (b) A student may not be prohibited, segregated, or denied
 33 attendance or enrollment in a public school in the student's school
 34 corporation because of the student's race, creed, color, **sexual**
 35 **orientation, gender identity**, or national origin.

36 (c) Every student is free to attend a public school, including a
 37 department or division of a public school within the laws applicable
 38 alike to noncitizen and nonresident students.

39 SECTION 8. IC 20-33-1-5, AS AMENDED BY P.L.2-2007,
 40 SECTION 228, IS AMENDED TO READ AS FOLLOWS
 41 [EFFECTIVE JULY 1, 2023]: Sec. 5. (a) A public school may not
 42 segregate, separate, or discriminate against any of its students on the



1 basis of race, creed, or color, **sexual orientation, or gender identity.**

2 (b) Admission to a public school may not be approved or denied on
3 the basis of race, creed, or color, **sexual orientation, or gender**
4 **identity.**

5 SECTION 9. IC 20-33-1-6, AS AMENDED BY P.L.2-2007,
6 SECTION 229, IS AMENDED TO READ AS FOLLOWS
7 [EFFECTIVE JULY 1, 2023]: Sec. 6. A public school may not
8 discriminate in any way in the hiring, upgrading, tenure, or placement
9 of a teacher on the basis of race, creed, color, **sexual orientation,**
10 **gender identity,** or national origin.

11 SECTION 10. IC 20-42-3-10, AS AMENDED BY P.L.286-2013,
12 SECTION 124, IS AMENDED TO READ AS FOLLOWS
13 [EFFECTIVE JULY 1, 2023]: Sec. 10. The trustee, with the advice and
14 consent of the township board, shall use the account for the following
15 educational purposes:

16 (1) Each year the trustee shall pay, to the parent or legal guardian
17 of any child whose residence is within the township, the initial
18 cost for the rental of curricular materials used in any elementary
19 or secondary school that has been accredited by the state. The
20 reimbursement for the rental of curricular materials shall be for
21 the initial yearly rental charge only. Curricular materials
22 subsequently lost or destroyed may not be paid for from this
23 account.

24 (2) Students who are residents of the township for the last two (2)
25 years of their secondary education and who still reside within the
26 township are entitled to receive financial assistance in an amount
27 not to exceed an amount determined by the trustee and the
28 township board during an annual review of postsecondary
29 education fees and tuition costs of education at any accredited
30 postsecondary educational institution. Amounts to be paid to each
31 eligible student shall be set annually after this review. The
32 amount paid each year must be:

33 (A) equitable for every eligible student without regard to race,
34 religion, creed, sex, disability, **sexual orientation, gender**
35 **identity,** or national origin; and

36 (B) based on the number of students and the amount of funds
37 available each year.

38 (3) A person who has been a permanent resident of the township
39 continuously for at least two (2) years and who needs educational
40 assistance for job training or retraining may apply to the trustee
41 of the township for financial assistance. The trustee and the
42 township board shall review each application and make assistance



1 available according to the need of each applicant and the
2 availability of funds.

3 (4) If all the available funds are not used in any one (1) year, the
4 unused funds shall be retained in the account by the trustee for
5 use in succeeding years.

6 SECTION 11. IC 20-51-4-3, AS AMENDED BY P.L.106-2016,
7 SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
8 JULY 1, 2023]: Sec. 3. (a) An eligible school may not discriminate on
9 the basis of race, color, **sexual orientation, gender identity**, or
10 national origin.

11 (b) An eligible school shall abide by the school's written admission
12 policy fairly and without discrimination with regard to students who:

13 (1) apply for; or

14 (2) are awarded;

15 scholarships under this chapter.

16 (c) If the number of applicants for enrollment in an eligible school
17 under a choice scholarship exceeds the number of choice scholarships
18 available to the eligible school, the eligible school must draw at
19 random in a public meeting the applications of applicants who are
20 entitled to a choice scholarship from among the applicants who meet
21 the requirements for admission to the eligible school.

22 (d) The department shall make random visits to at least five percent
23 (5%) of eligible schools during a particular school year to verify that
24 the eligible school complies with the provisions of this chapter and the
25 Constitutions of the State of Indiana and the United States.

26 (e) Each eligible school shall grant the department reasonable
27 access to its premises, including access to the school's grounds,
28 buildings, and property.

29 (f) Each year the principal of each eligible school shall certify under
30 penalties of perjury to the department that the eligible school is
31 complying with the requirements of this chapter. The department shall
32 develop a process for eligible schools to follow to make certifications.

