

First Regular Session 120th General Assembly (2017)

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 2016 Regular Session of the General Assembly.

SENATE ENROLLED ACT No. 108

AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 20-26-11-32, AS AMENDED BY P.L.39-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 32. (a) This section does not apply to a school corporation if the governing body has adopted a policy of not accepting the transfer of any student who does not have legal settlement within the school corporation.

(b) The governing body of a school corporation shall annually establish:

(1) except as provided in subsection (m), the number of transfer students the school corporation has the capacity to accept in each grade level; and

(2) the date by which requests to transfer into the school corporation must be received by the governing body.

(c) After establishing the date under subsection (b)(2), the governing body shall:

(1) publish the date on the school corporation's Internet web site; and

(2) report the date to the department.

(d) The department shall publish the dates received from school corporations under subsection (c)(2) on the department's Internet web site.

(e) A student to whom this section applies may not request to

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transfer under this section primarily for athletic reasons to a school corporation in which the student does not have legal settlement.

(f) If the number of requests to transfer into a school corporation received by the date established for the school corporation under subsection (b)(2) exceeds the capacity established for the school corporation under subsection (b)(1), each timely request must be given an equal chance to be accepted, with the exception that a student described in subsection (h) shall be given priority. The governing body must determine which students will be admitted as transfer students to each school building and each grade level within the school corporation by a random drawing in a public meeting.

(g) Except as provided in subsections (i), (j), (k), and (m), the governing body of a school corporation may not deny a request for a student to transfer into the school corporation based upon the student's academic record, scores on ISTEP tests, disciplinary record, or disability, or upon any other factor not related to the school corporation's capacity.

(h) Except as provided in subsections (i), (j), and (k), the governing body of a school corporation may not deny a request for a student to transfer into the school corporation if the student requesting to transfer:

- (1) is a member of a household in which any other member of the household is a student in the transferee school; or
- (2) has a parent who is an employee of the school corporation.

(i) A governing body of a school corporation may limit the number of new transfers to a school building or grade level in the school corporation:

- (1) to ensure that a student who attends a school within the school corporation as a transfer student during a school year may continue to attend the school in subsequent school years; and
- (2) to allow a student described in subsection (h) to attend a school within the school corporation.

(j) Notwithstanding subsections (f), (g), and (h), a governing body of a school corporation may deny a request for a student to transfer to the school corporation **or may discontinue enrollment currently or in a subsequent school year**, or establish terms or conditions for enrollment ~~that prevent a student from enrolling in a school, or for continued enrollment in a subsequent school year~~, if:

- (1) the student has been suspended (as defined in IC 20-33-8-7) or expelled (as defined in IC 20-33-8-3) during the twelve (12) months preceding the student's request to transfer under this section:

(†) (A) for ten (10) or more school days;



- ~~(2)~~ **(B)** for a violation under IC 20-33-8-16;
- ~~(3)~~ **(C)** for causing physical injury to a student, a school employee, or a visitor to the school; or
- ~~(4)~~ **(D)** for a violation of a school corporation's drug or alcohol rules; or

(2) the student has had a history of unexcused absences and the governing body of the school corporation believes that, based upon the location of the student's residence, attendance would be a problem for the student if the student is enrolled with the school corporation.

For purposes of subdivision ~~(1)~~; **(1)(A)**, student discipline received under IC 20-33-8-25(b)(7) for a violation described in ~~subdivisions (2)~~ **subdivision (1)(B)** through ~~(4)~~ **(1)(D)** shall be included in the calculation of the number of school days that a student has been suspended.

(k) The governing body of a school corporation with a school building that offers a special curriculum may require a student who transfers to the school building to meet the same eligibility criteria required of all students who attend the school building that offers the special curriculum.

(l) The parent of a student for whom a request to transfer is made is responsible for providing the school corporation to which the request is made with records or information necessary for the school corporation to determine whether the request to transfer may be denied under subsection (j).

(m) Notwithstanding this section, the governing body of a school corporation may authorize the school corporation to enter into an agreement with an accredited nonpublic school or charter school to allow students of the accredited nonpublic school or charter school to transfer to a school within the school corporation.

(n) A school corporation that has adopted a policy to not accept student transfers after June 30, 2013, is not prohibited from enrolling a:

- (1) transfer student who attended a school within the school corporation during the 2012-2013 school year; or
- (2) member of a household in which any other member of the household was a transfer student who attended a school within the school corporation during the 2012-2013 school year.

However, if a school corporation enrolls a student described in subdivision (1) or (2), the school corporation shall also allow a student or member of the same household of a student who attended an accredited nonpublic school within the attendance area of the school



corporation during the 2012-2013 school year to enroll in a school within the school corporation.

SECTION 2. IC 20-27-9-5, AS AMENDED BY P.L.182-2009(ss), SECTION 318, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 5. (a) A special purpose bus may be used:

- (1) by a school corporation to provide regular transportation of a student between one (1) school and another school but not between the student's residence and the school;
- (2) to transport students and their supervisors, including coaches, managers, and sponsors to athletic or other extracurricular school activities and field trips;
- (3) by a school corporation to provide transportation between an individual's residence and the school for an individual enrolled in a special program for the habilitation or rehabilitation of persons with a developmental or physical disability, **and, if applicable, the individual's sibling;** and
- (4) to transport homeless students under IC 20-27-12.

(b) The mileage limitation of section 3 of this chapter does not apply to special purpose buses.

(c) The operator of a special purpose bus must be at least twenty-one (21) years of age, be authorized by the school corporation, and meet the following requirements:

- (1) If the special purpose bus has a capacity of less than sixteen (16) passengers, the operator must hold a valid:
 - (A) operator's;
 - (B) chauffeur's;
 - (C) public passenger chauffeur's; or
 - (D) commercial driver's;
 license.

- (2) If the special purpose bus has a capacity of more than fifteen (15) passengers, the operator must meet the requirements for a school bus driver set out in IC 20-27-8.

(d) A special purpose bus is not required to be constructed, equipped, or painted as specified for school buses under this article or by the rules of the committee.

(e) An owner or operator of a special purpose bus, other than a special purpose bus owned or operated by a school corporation or a nonpublic school, is subject to IC 8-2.1.

SECTION 3. IC 20-28-9-1.5, AS AMENDED BY SEA 498-2017, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1.5. (a) This subsection governs salary increases



for a teacher employed by a school corporation. Compensation attributable to additional degrees or graduate credits earned before the effective date of a local compensation plan created under this chapter before July 1, 2015, shall continue for school years beginning after June 30, 2015. Compensation attributable to additional degrees for which a teacher has started course work before July 1, 2011, and completed course work before September 2, 2014, shall also continue for school years beginning after June 30, 2015. For school years beginning after June 30, 2015, a school corporation may provide a supplemental payment to a teacher in excess of the salary specified in the school corporation's compensation plan if the teacher teaches an advanced placement course or has earned a master's degree from an accredited postsecondary educational institution in a content area directly related to the subject matter of:

- (1) a dual credit course; or
- (2) another course;

taught by the teacher. In addition, a supplemental payment may be made to an elementary school teacher who earns a master's degree in math or reading and literacy. A supplement provided under this subsection is not subject to collective bargaining, but a discussion of the supplement must be held. Such a supplement is in addition to any increase permitted under subsection (b).

(b) Increases or increments in a local salary range must be based upon a combination of the following factors:

- (1) A combination of the following factors taken together may account for not more than thirty-three and one-third percent (33.33%) of the calculation used to determine a teacher's increase or increment:

- (A) The number of years of a teacher's experience.
- (B) The possession of either:
 - (i) additional content area degrees beyond the requirements for employment; or
 - (ii) additional content area degrees and credit hours beyond the requirements for employment, if required under an agreement bargained under IC 20-29.

- (2) The results of an evaluation conducted under IC 20-28-11.5.
- (3) The assignment of instructional leadership roles, including the responsibility for conducting evaluations under IC 20-28-11.5.
- (4) The academic needs of students in the school corporation.

(c) Except as provided in subsection (d), a teacher rated ineffective or improvement necessary under IC 20-28-11.5 may not receive any raise or increment for the following year if the teacher's employment



contract is continued. The amount that would otherwise have been allocated for the salary increase of teachers rated ineffective or improvement necessary shall be allocated for compensation of all teachers rated effective and highly effective based on the criteria in subsection (b).

(d) Subsection (c) does not apply to a teacher in the first two (2) full school years that the teacher provides instruction to students in elementary school or high school. If a teacher provides instruction to students in elementary school or high school in another state, any full school year, or its equivalent in the other state, that the teacher provides instruction counts toward the two (2) full school years under this subsection.

(e) A teacher who does not receive a raise or increment under subsection (c) may file a request with the superintendent or superintendent's designee not later than five (5) days after receiving notice that the teacher received a rating of ineffective. The teacher is entitled to a private conference with the superintendent or superintendent's designee.

(f) ~~The department~~ **Indiana education employment relations board established in IC 20-29-3-1** shall publish a model compensation plan with a model salary range that a school corporation may adopt. ~~Before July 1, 2015, the department may modify the model compensation plan; as needed, to comply with subsection (g).~~

(g) Each school corporation shall submit its local compensation plan to the ~~department.~~ **Indiana education employment relations board.** For a school year beginning after June 30, 2015, a local compensation plan must specify the range for teacher salaries. The ~~department~~ **Indiana education employment relations board** shall publish the local compensation plans on the ~~department's~~ **Indiana education employment relations board's** Internet web site.

(h) ~~The department~~ **Indiana education employment relations board** shall ~~report any noncompliance with this section to the state board; review a compensation plan for compliance with this section as part of its review under IC 20-29-6-6.1. The Indiana education employment relations board has jurisdiction to determine compliance of a compensation plan submitted under this section.~~

(i) ~~The state board shall take appropriate action to ensure compliance with this section.~~

(j) (i) This chapter may not be construed to require or allow a school corporation to decrease the salary of any teacher below the salary the teacher was earning on or before July 1, 2015, if that decrease would be made solely to conform to the new compensation plan.



~~(k)~~ (j) After June 30, 2011, all rights, duties, or obligations established under IC 20-28-9-1 before its repeal are considered rights, duties, or obligations under this section.

SECTION 4. IC 20-29-6-6.1, AS AMENDED BY SEA 409-2017, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 6.1. (a) After ratification of a contract under section 6 of this chapter, a school employer shall submit the ratified collective bargaining agreement, including the compensation model developed under IC 20-28-9-1.5, to the board.

(b) The board shall appoint a staff member or an ad hoc panel member to review each submitted collective bargaining agreement and to make a written recommendation concerning the collective bargaining agreement's compliance with this chapter, including a penalty for any noncompliance. The review must be completed before May 31 of the year in which the current collective bargaining agreement expires.

(c) Not later than fifteen (15) days after a recommendation has been made under subsection (b), one (1) or both parties to a collective bargaining agreement may appeal to the board, in writing, the decision made in the recommendation. If the board does not receive an appeal not later than fifteen (15) days after issuing a recommendation, the recommendation becomes the final order of the board.

(d) If the board receives a timely appeal, the board may make a decision on the recommendation with or without oral argument. The board may request that the parties submit briefs. The board must issue a ruling on the appeal not later than thirty (30) days after the last of the following occurs:

- (1) The appeal is received.
- (2) Briefs are received.
- (3) Oral arguments are held.

(e) IC 4-21.5 does not apply to a review under subsection (b) or (d).

(f) If, following the review of a collective bargaining agreement, the board finds the collective bargaining agreement does not comply with this chapter, the board shall issue an order that may include one (1) or more of the following items:

- (1) Ordering the parties to cease and desist from all identified areas of noncompliance.
- (2) Preventing the parties from ratifying any subsequent collective bargaining agreements until the parties receive written approval from the board or the board's agent.
- (3) Requiring other action as deemed appropriate by the board as authorized by state law.



(g) The board may send the board's compliance findings to other state agencies as necessary.

(h) After a school employer has submitted a collective bargaining agreement under subsection (a), the school employer and an exclusive representative may not enter into a new collective bargaining agreement containing the noncompliant provision until the school employer has received either:

- (1) the board's order regarding the compliance of the submitted collective bargaining agreement with this chapter; or
- (2) other written approval from the board or an agent of the board.

(i) If any provision of the collective bargaining agreement is found not to be compliant with this chapter, the provision that is found to be noncompliant with this chapter shall not affect other provisions of the collective bargaining agreement that can be given effect without the noncompliant provision, and to this end the provisions of collective bargaining agreement are severable.

(j) The board:

- (1) shall adopt rules under IC 4-22; and
- (2) may adopt emergency rules in the manner provided under IC 4-22-2-37.1;

as necessary to implement this section.

(k) An emergency rule adopted by the board under subsection (j) expires on the earliest of the following dates:

- (1) The expiration date stated in the emergency rule.**
- (2) The date the emergency rule is amended or repealed by a later rule adopted under IC 4-22-2-22.5 through IC 4-22-2-36 or IC 4-22-2-37.1.**
- (3) One (1) year after the date the emergency rule is adopted.**

(l) This subsection applies only to a school corporation that has a compensation plan developed under IC 20-28-9-1.5 but does not have a ratified collective bargaining agreement. A school corporation shall, not later than October 1 of the year in which the compensation plan becomes effective, submit the school corporation's compensation plan to the board.

(m) If a school corporation fails to timely file a compensation plan as required under subsection (l), the school corporation's compensation plan is considered not in compliance with IC 20-28-9-1.5 and this section unless a compliance officer of the board finds good cause shown for the delay.

SECTION 5. IC 20-30-5-20, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2017 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



UPON PASSAGE]: Sec. 20. (a) **As used in this section, "charter school" does not include a virtual charter school, as defined in IC 20-24-7-13.**

(a) (b) As used in this section, "psychomotor skills" means skills using hands on practice to support cognitive learning.

(b) (c) Except as provided in subsection (e); (f), each school corporation, **charter school**, and accredited nonpublic school shall include in the **charter school's**, school corporation's, or accredited nonpublic school's high school health education curriculum instruction in cardiopulmonary resuscitation and use of an automated external defibrillator for its students. The instruction must incorporate the psychomotor skills necessary to perform cardiopulmonary resuscitation and use an automated external defibrillator and must include either of the following:

(1) An instructional program developed by the American Heart Association or the American Red Cross.

(2) An instructional program that is nationally recognized and is based on the most current national evidence based emergency cardiovascular care guidelines for cardiopulmonary resuscitation and the use of an automated external defibrillator.

(e) (d) A school corporation, **charter school**, or an accredited nonpublic school may offer the instruction required in subsection (b) (c) or may arrange for the instruction to be provided by available community based providers. The instruction is not required to be provided by a teacher. If instruction is provided by a teacher, the teacher is not required to be a certified trainer of cardiopulmonary resuscitation.

(d) (e) This section shall not be construed to require a student to become certified in cardiopulmonary resuscitation and the use of an automated external defibrillator. However, if a school corporation, **charter school**, or accredited nonpublic school chooses to offer a course that results in certification being earned, the course must be taught by an instructor authorized to provide the instruction by the American Heart Association, the American Red Cross, or a similar nationally recognized association.

(e) (f) A school administrator may waive the requirement that a student receive instruction under subsection (b) (c) if the student has a disability or is physically unable to perform the psychomotor skill component of the instruction required under subsection (b); (c).

(f) If a school is unable to comply with the psychomotor skill component of the instruction required under subsection (b); the governing body may submit a request to the state superintendent to



waive the psychomotor skill component. The state superintendent shall take action on the waiver request within thirty (30) days of receiving the request for a waiver. A waiver request must:

- (1) be in writing;
- (2) include the reason or reasons that necessitated the waiver request;
- (3) indicate the extent to which the school attempted to comply with the requirements under subsection (b); and
- (4) be submitted each year for the school year the school requests the waiver.

This subsection expires July 1, 2015.

SECTION 6. IC 20-31-5-3, AS ADDED BY P.L.1-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) The committee must submit a school's initial plan to the superintendent by March 1 of the school year before the year of implementation. The superintendent:

- (1) shall review the plan to ensure that the plan aligns with the school corporation's objectives, goals, and expectations;
- (2) may make written recommendations of modifications to the plan to ensure alignment; and
- (3) shall return the plan and any recommendations to the committee by April 1 of the school year before the year of implementation.

(b) A committee may modify the plan to comply with recommendations made by the superintendent under subsection (a).

(c) A committee shall submit:

- (1) the plan; and
- (2) the written recommendations of the superintendent;

to the governing body by May 1 of the school year before the year of implementation.

(d) An initial plan must be established ~~by June 1 of the school year before the year of implementation by approval of the governing body.~~ **and approved by the governing body not later than August 1 of the school year in which the plan is to be implemented.** The governing body shall approve a plan for each school in the school corporation. When a plan is presented to the governing body, the governing body must either accept or reject the plan and may not revise the plan. A plan is established when written evidence of approval is attached to the plan.

SECTION 7. IC 20-33-2-17.5, AS ADDED BY P.L.185-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 17.5. (a) The governing body of a school



corporation may authorize the absence and excuse of a student who attends any educationally related nonclassroom activity. Any educationally related nonclassroom activity and nonclassroom activity must meet all the following conditions:

- (1) Is consistent with and promotes the educational philosophy and goals of the school corporation and the state board.
- (2) Facilitates the attainment of specific educational objectives.
- (3) Is a part of the goals and objectives of an approved course or curriculum.
- (4) Represents a unique educational opportunity.
- (5) Cannot reasonably occur without interrupting the school day.
- (6) Is approved in writing by the school principal.

(b) A student excused from school attendance under this section may not be recorded as being absent on any date for which the excuse is operative and may not be penalized by the school in any manner.

SECTION 8. IC 22-4.1-18-1, AS ADDED BY P.L.7-2011, SECTION 21, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. This chapter applies to an individual who is:

- (1) at least eighteen (18) years of age; or
- (2) less than eighteen (18) years of age, if a superintendent (as defined in IC 20-18-2-21) **or principal, or the superintendent's or principal's designee**, recommends that the individual participate in the testing program.

SECTION 9. [EFFECTIVE UPON PASSAGE] **(a) The definitions in IC 20 apply throughout this SECTION.**

(b) The department, in collaboration with the state board, shall conduct a study in Indiana of standard and indicator level observation data based upon a representative population of certificated employees to prepare a report that includes recommendations regarding certificated employees evaluations, including:

- (1) recommended parameters for evaluating certificated employees;**
- (2) measures by which certificated employees should be evaluated;**
- (3) recommend standards and indicators that may be used to guide higher education educator preparation programs; and**
- (4) any other recommendations that the department considers appropriate in evaluating certificated employees.**

(c) The department shall, not later than November 1, 2017, submit the report described under subsection (b) to the general



assembly in an electronic format under IC 5-14-6.

(d) This SECTION expires July 1, 2018.

SECTION 10. [EFFECTIVE UPON PASSAGE] (a) As used in this SECTION, "legislative council" refers to the legislative council created by IC 2-5-1.1-1.

(b) Before December 1, 2017, the department of workforce development shall commission an entity that specializes in improving access to adult literacy programs to do the following:

(1) Prepare and submit a report as described in subsection (c) to the legislative council in an electronic format under IC 5-14-6.

(2) Present the report required under this SECTION to the state workforce innovation council.

(c) The report must identify reading and math literacy programs (or the portion of programs) that exist throughout Indiana and serve adults who are at least eighteen (18) years of age and identify for each program:

(1) the types of services offered;

(2) the number of people served on an annual basis through each service offered;

(3) the source and amount of funding;

(4) the number of staff;

(5) the estimated unmet need;

(6) to what extent a program tracks employment and further job training and higher education outcomes; and

(7) the extent to which low literacy is a barrier to future employment and career advancement.

(d) This SECTION expires December 1, 2018.

SECTION 11. An emergency is declared for this act.



President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Governor of the State of Indiana

Date: _____ Time: _____

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