

PARENTS' BILL OF RIGHTS

Provided by Indiana Attorney General Todd Rokita



A roadmap for Hoosier parents and caregivers
to exercise their legal right to direct their
children's education Edition 3.0 Updated June 2022





Student and Parent Rights

Preamble

Dear Indiana Parent,

Thank you for all you do to raise and protect your children. We cherish our kids and would do anything to keep them safe, happy, and prepared for the future. In fact, it's our solemn duty as parents. As fellow parents, my wife Kathy and I understand that duty, along with the joy and the hassles you experience in executing it.

"We the Parents" are primarily responsible for what and how our children learn. It is not the government's job to raise our children, even if it wants to do so. Therefore, it is of utmost importance that we understand our legal rights to effectively oversee and participate in the part of our children's education that occurs outside the home, including in government schools. Towards that effort, the Office of the Attorney General (OAG) published the Parents' Bill of Rights to provide parents a roadmap to understanding their rights and how the law interacts with their children's education.

The Parents' Bill of Rights consists of four volumes, three of which are completed. [Volume I](#) describes parents' rights in school governance, curriculum and standards adoption, and civil rights complaints. [Volume II](#) details parents' rights regarding medical decisions for their children, such as access to student health records, vaccination requirements, and educational accommodations. Because Indiana has one of the most robust school choice programs in the country, with over 35,000 students receiving scholarships in 2021 to attend their school of choice, we dedicated [Volume III](#) of the Parents' Bill of Rights to educational liberty. This volume covers the right of parents to choose the education option that best fits their children's needs and details the multiple pathways available to personalize their K-12 experience. It also includes updates to volumes I & II of the Parents' Bill of Rights. These updates reflect changes made to the law during the 2022 legislative session, including two bills I want to bring to your attention:

- HEA 1271 changes what students learn and how they are tested. It requires the State Board of Education to adopt fewer academic standards and develop a new statewide test (ILEARN and ISTEP), see page 12.
- HEA 1303 and SEA 83 facilitate parent involvement by requiring school boards to take public comment at public school board meetings, see page 27.

Please stay tuned for the fourth and final volume of the Parents' Bill of Rights. It will cover religious liberty in schools, including a child's right to practice his or her faith inside the schoolhouse gates. Additionally, please follow @AGToddRokita on Twitter to receive Parents' Bill of Rights alerts on education matters and developments important to your child's education.

The Parents' Bill of Rights is available on our website. If my office can provide further information on these rights, contact us by calling (317) 232-6201 or visiting www.in.gov/attorneygeneral/.

Very truly yours,

A handwritten signature in black ink that reads "Todd Rokita".

Todd Rokita
Parent
Attorney General of Indiana



Parent Education Bill of Rights

1.

You have the right and expectation to question and address your child's school officials via letters, electronic communications, and in-person meetings. You also have the right to attend publicly designated meetings with proper notice of the meetings provided.

2.

You have the right and expectation to provide public comments at designated school board meetings.

3.

You have the right and expectation to question and review the curriculum taught in your child's school.

4.

You have the right and expectation that the academic curriculum taught in your child's school aligns with Indiana and federal law.

5.

You have the right and expectation to participate in the selection and adoption of academic standards for the State of Indiana.

6.

You have the right to run as a candidate for your local school board.

7.

You have the right and expectation to make medical care decisions on behalf of your child, including vaccinations and immunizations.

8.

You have the right and expectation to receive your child's student health records.

9.

You have the right to receive special education services on behalf of your child with a disability, regardless of enrollment in the public school system.

10.

You have a constitutional right to direct the upbringing and education of your child in the manner you see fit.

11.

You have the right to request a transfer for your public school child to attend another public school that is either within or outside the boundaries of your public school district.

12.

You have the right to apply for school choice offerings through the Indiana Choice Scholarship Program, Indiana Educational Savings Account Program, or a Scholarship Granting Organization to reduce the cost of private education.



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Questions and Answers

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Volume I: Indiana School Curriculum and Academic Standards

Q: What are the roles of local school boards, superintendents, and principals?

A: A school corporation includes the school board, its members, school administrators, and any other aspects of the school district. The superintendent is the executive for the school corporation. The principal is the administrator of individual schools. All these educational stakeholders share the goal of ensuring that curriculum aligns with state law and meets state standards. Local school boards are widely regarded as the principal body capable of representing citizens in local educational decisions, including adopting curriculum presented to them by the superintendent. School boards have a duty in deciding what educational content is included in curriculum and what is left out. It is of extreme importance for parents to voice their concerns when curriculum deviates from approved academic standards.

Q: How are Indiana academic standards and curriculum established?*

A: The Indiana General Assembly (“IGA”) establishes the academic subjects and courses schools must teach under Ind. Code § 20-30-5-5. The Indiana Department of Education (“IDOE”) is responsible for developing standards for these courses and subjects under Ind. Code § 20-19-2-14(1)¹. The State Board of Education (“SBOE”) formally adopts the standards developed by IDOE under Ind. Code § 20-19-2-14.5. School boards are charged with selecting a curriculum aligned to the standards adopted by SBOE for each subject or course. It is important to note that IDOE does not have the authority to unilaterally create courses, develop standards, or set policies not authorized by the IGA under the law. The IGA intended for IDOE to carry out the duties outlined in statute and any “policies and procedures established by the state board” set forth in statute. Ind. Code § 20-18-3-1. Additionally, local school boards may approve subjects and courses for schools within their district under Ind. Code § 20-30-5-21, but such subjects and courses may not conflict with or supplant those mandated by the IGA. If a school board exercises this power and approves an additional subject or course, the IGA may pass a law to prohibit the school corporation from doing so. In sum, schools and teachers are prohibited from teaching any subjects or courses that are not authorized in law or approved by their local school board.

¹See also Ind. Code § 20-19-2-14.5.



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Q: Can Indiana academic standards and curriculum be changed?*

A: Yes. Indiana academic standards are diverse and developed over time through IDOE standards revision committees. Pursuant to Ind. Code § 20-31-3-4, IDOE shall appoint an academic standards committee composed of subject area teachers, higher education representatives with subject matter expertise, and **parents** during the period when a subject area is undergoing revision. Pursuant to Ind. Code § 20-31-3-3, parents can provide comments and suggestions when academic standards are proposed for adoption, typically every six years. During the 2022 legislative session, the IGA amended Ind. Code ch. 20-31-3 to substantially reduce the number of academic standards and realign the statewide assessments (ILEARN). IDOE must recommend to SBOE no more than 33% of the existing academic standards as “essential” for post-secondary success for grades K-8 by June 1, 2024, and for high school by June 1, 2023. The SBOE shall approve all academic standards submitted by IDOE no later than June 1, 2024, and realign the ILEARN assessment to the new standards no later than March 1, 2025. Ind. Code § 20-31-3-1(d).

Under Indiana law, parents do not have a right to individual notice of these adoption meetings and committees but are urged to consult IDOE’s website and subscribe to the Indiana Secretary of Education’s weekly update letters (see “Additional Parent Resources”). This proactive approach is crucial for parents to hold school boards, school administrators, and legislators accountable and to assure oversight in reviewing standards. In addition, parents can be appointed to committees and provide input regarding how a particular standard may affect curriculum related to controversial theories, social advocacy groups, and political topics.

Q: What is the difference between an academic standard and academic curriculum?

A: Generally, academic standards reflect benchmarks for student achievement and what students should learn at each grade level. Standards are used as the basis for curriculum, but Indiana Academic Standards are not curriculum. Rather, curriculum includes the textbooks, digital content, and materials selected by a school district and adopted by a local school board.

Q: How else are academic standards changed or modified?*

A: Academic standards should reflect a holistic approach that is balanced and representative of all viewpoints. These standards may be reviewed and altered as necessary and consistently need to reflect the educational values and interests of Indiana parents.



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As discussed above, parents should take every opportunity to join IDOE committees and provide comments in response to IDOE solicited parent feedback when standards are revised or proposed for adoption. The next standards revision will be on or before June 1, 2024, as prescribed under Ind. Code § 20-31-3-3. This revision process will include the reduced K-12 academic standards that reflect the skills and traits necessary for post-secondary success. Ind. Code § 20-31-3-1(d). **The IGA has oversight of IDOE proceedings and the authority to change them. If parents find IDOE or its processes unresponsive or unworkable, Indiana law would need to be changed to accommodate a more open, collaborative process. If parents find this condition to be the case, they should contact their legislators and the legislators sitting on the Indiana House and Senate education committees.**

Q: What civics education and curriculum are required in schools?

A: Indiana law requires patriotism in multiple instances in schools. In Indiana, the United States flag shall be displayed in each classroom of every school in a school corporation. Indiana law also mandates that the governing body of each school corporation provide a daily opportunity for students to voluntarily recite the Pledge of Allegiance. A student is exempt from participation in the Pledge of Allegiance and may not be required to participate if the student chooses not to participate, or the student's parent chooses to have the student not participate. Ind. Code § 20-30-5-0.5. Moreover, Indiana law requires that each governing body procure a 4 feet by 6 feet United States flag for schools to display every day the school is in session. Ind. Code § 20-30-3. Indiana law provides discretion for schools that wish to place a poster or framed picture of the national motto of the United States, "In God We Trust," and a representation of the United States flag and Indiana state flag. Ind. Code § 20-30-3.

Regarding civics education, Indiana law instructs schools to provide education to students on the Constitution, American history, and American writings and documents. Specifically, in grades 6-12, every school must provide instruction on the Constitution of Indiana and the United States. Ind. Code § 20-30-5-1. Courses on the Constitutions should encompass the historical, political, civic, sociological, economical, and philosophical aspects of the Constitutions. A school corporation cannot censor certain American writings, such as the Constitution of the United States or the Declaration of Independence, and must allow those to be displayed or read by teachers and principals. Ind. Code § 20-30-5-3. Within two weeks following a general election, all students in grades 6-12 shall have five class period discussions concerning the system of governing in Indiana and the United States, methods of voting, party structure, election laws, and citizenship participation.



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The IGA recently passed a law requiring a semester of civics education in grades 6, 7, or 8. Ind. Code § 20-30-5-7.3. SBOE will establish standards for civics education before July 1, 2022. Ind. Code § 20-19-2-14.7. The law establishes an Indiana Civic Education Commission to provide recommendations to IDOE and SBOE on implementation and review of best practices, pedagogy, and policy for civics education. Ind. Code § 20-19-10. Requiring only recommendations from this Commission leaves IDOE, SBOE, and local school boards with the sole discretion to develop standards and curriculum on civics education. The IGA should remain cognizant of the development of standards and curriculum as these standards “may only be changed by the express authorization of the general assembly.” Ind. Code § 20-19-2-14.7(b). In other words, once the SBOE adopts the civic standards, only the IGA can change them. **If the final standards do not meet the expectations of Hoosiers, parents have the right to petition the IGA to pass legislation to correct them.**

Parental Consent and Educational Curriculum Not Aligned with Indiana Academic Standards

Q: Can my child be taught certain curriculum or instruction without parental consent?

A: No. Pursuant to Ind. Code § 20-30-5-17(b), certain curriculum cannot be taught without parental consent. Curriculum and instruction related to a personal analysis, evaluation, or 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 aimed toward human sexuality, religious practices, and political affiliations, are all examples of curriculum needing prior parental consent. Recently, parents have observed firsthand these types of questions included on a Panorama survey completed by their children online during the COVID-19 quarantine. The survey asked students if they agreed or disagreed with controversial issues, such as government funding for Planned Parenthood, transgenderism in sports, and abortion. Schools or teachers that administer such surveys or questionnaires to students without parental consent violate Ind. Code § 20-30-5-17(b). Parental consent determinations on curriculum not directly related to academic instruction will first be made by the school corporation. Parents should work directly with school officials to discuss curriculum concerns. If a parent is dissatisfied with a school district’s determination on curriculum, it may request a further determination by contacting the Indiana Department of Education (“IDOE”) (*see attached “Additional Parent Resources”*). **Additionally, parents have the right to petition the IGA to expand the list under Ind. Code § 20-30-5-17 to include additional curriculum and instruction that requires parental consent.**



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Q: Are controversial political and social groups discussed in my child's classroom?

A: Students cannot be asked to participate in or express their personal feelings regarding controversial political groups and politically affiliated social groups unrelated to academic instruction in a K-12 classroom without parental consent. Ind. Code § 20-30-5-17(b). Flawed ideologies that distort history and create controversy cannot be appropriately aligned with approved Indiana academic standards and student achievement, in part, because they lack the highest evidence-based practices as required by the federal Every Student Succeeds Act (“ESSA”). 20 U.S.C. § 6301 et seq. The ESSA requires that schools receiving certain grant funds use evidence-based practices in the classroom. Controversial social groups often contain political undertones and solicit political discussions in the classroom. As such, parents should utilize their voices and contact their child's school district when controversial political and social ideologies are brought into Indiana classrooms. The OAG is committed to supporting the rights of Indiana parents and the expectation that their children will receive an evidence-based education not contrary to Indiana or federal law.

The OAG has also issued an advisory opinion to state legislators that Black Lives Matter and affiliated organizations are unequivocally political organizations, and the display of such political materials by teachers in a classroom setting is unlikely to be protected under the First Amendment. The opinion also concludes that compelling students to speak about or take a position on controversial issues related to any partisan political group violates the student's First Amendment protections.² Ultimately, school corporations must ensure that their policies and procedures do not run afoul of Indiana law and constitutional protections. If a parent believes a school employee has violated their child's constitutional rights, they may be able to bring a lawsuit under Section 1983 of the Civil Rights Act. 42 U.S. Code § 1983. Please see the section titled “Parent Participation, Procedural Rights, and Remedies” for more information on how to file a civil rights complaint.

² Official Opinion 2021-2, <https://www.in.gov/attorneygeneral/files/Official-Opinion-2021-2.pdf>.



Questions and Answers

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Q: What is Critical Race Theory (“CRT”)?

A: The IGA established as a policy of the state that students receive equal and nondiscriminatory education opportunities. As such, children should expect a welcoming learning environment, nondiscriminatory teachings, equal protection under the Constitution, and equal educational opportunity under the law.

Indiana students are taught to reflect upon the important contributions and struggles of racial and minority groups, which are ingrained in the heart of American history. Our nation’s history reflects a melting pot of experiences and cultural backgrounds from many ethnic and racial groups, all of whom have overwhelmingly shaped our great country for centuries.

CRT, the 1619 project, and similar concepts and lesson plans, however, are deeply flawed and controversial teachings. CRT is an ideological construct that analyzes and interprets American history and government primarily through the narrow prism of race. Like CRT, many related ideologies purport to teach diversity and inclusion but in reality, promote exclusionary tenets under the guise of euphemisms commonly referred to as “culturally responsive teaching,” “intersectionality theory,” “radical genderism,” “microinequities,” and “diversity and equity” initiatives. The 1619 Project aims to reframe the country’s history by placing slavery at the center of the United States narrative. CRT’s teachings are widespread, and their principles are not rooted in American history or known historical fact.

Rather, CRT, the 1619 Project, and other similar lesson plans attempt to create their own truths through Marxist ideologies, seeking to abolish individual rights and redistribute wealth. Such CRT teachings have a discriminatory effect on students who are inappropriately defined as having “privilege” or being “oppressors” based solely on their race. Teachers promoting such theories denigrate classes of students. Classroom instruction rooted in CRT teachings runs afoul of broad non-discrimination protections, equal protection, Title VI, and well-established Indiana law.

Q: What is Critical Theory (“CT”)?

A: CT is the foundation from which all these destructive theories flow and can be traced back formally to 1937 at the Frankfurt School, an institute known for its Marxist philosophies.³ CT’s goal, like Critical Legal Theory (“CLT”) and CRT, is “to attack Western institutions and norms in order to tear them down.”

³ Jonathan Butcher and Mike Gonzalez, *Critical Race Theory, the New Intolerance, and Its Grip on America*, The Heritage Foundation, 3-4, (December 7, 2020), <http://report.heritage.org/bg3567>.



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CT's goal, like Critical Legal Theory ("CLT") and CRT, is "to attack Western institutions and norms in order to tear them down."⁴ CT and CLT have spawned a wide variety of offshoots beyond CRT, including Critical Gender Theory, Latino Critical Theory, and many others. CRT is an outgrowth of Critical Theory ("CT"), which spawned CLT, from which CRT formed. The common theme of these CT offshoots is that they view all aspects of life through the lens of race or gender (containing two classes of people, the oppressed and the oppressor), therefore promoting the need to replace systems of western civilization with a Marxist worldview.

Q: What is Critical Gender Theory? ("CGT")

A: Similar to CRT, Critical Gender Theory ("CGT") is a controversial and problematic teaching that originates from Marxist ideologies. It is a complex, theoretical perspective that analyzes society through the lens of power and unpacks the ways in which LGBTQ+ individuals are oppressed by heterosexuals through hegemonic structures and ideals. Gender under the framework of CT furthers the narratives of "structural oppression" and "power and privilege." Students are taught that if they are comfortable being a boy or a girl they are members of an "oppressor group" (the cisgender) and that belief in binary sex is a form of bigotry and bullying.

Q: What is the difference between equality and equity?

A: "Equality" and "equity" sound similar but are functionally opposite. Equality refers to ensuring that individuals from all segments of society have an equal opportunity to attend school, apply for jobs, access public resources, and equal treatment under the law. On the other hand, equity is premised on the idea that people have different circumstances and abilities; thus, resources and opportunities must be allocated in accordance with these differences to reach an equal outcome. To achieve equity, some classes will gain privileges, and others will lose them. Under CRT and other theories, "equity" requires race-based discrimination because systematic racism has purportedly produced disparities between races.⁵ The only remedy for CRT supporters is to treat the two individual classes of Americans differently based on race and forcibly produce equal outcomes.

⁴ *Id.* at 4.

⁵ *How to Identify Critical Race Theory*, The Heritage Foundation, (accessed August 11, 2021), <https://www.heritage.org/civil-society/heritage-explains/how-identify-critical-race-theory>.



Questions and Answers

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Q: Is CT, CRT, CGT, or similar instruction permissible under Indiana academic standards?

A: Regarding Indiana academic standards, CT, CRT, CGT, or similar instruction is not aligned with any IDOE approved standard. Specifically, CRT is not expressly mentioned or aligned with any IDOE approved civics, history, or social studies standard.⁶

Indiana standards should reflect a holistic approach that is balanced and representative of all viewpoints and consistent with the curriculum approved by the IGA. Traditional U.S. history and civics curriculum should not be diluted with controversial and radical teachings of CRT in a K-12 classroom. Standards reflecting various civic and moral instruction must be crafted in ways that reflect equality, inclusivity, and diversity, while not maligning parents, students, and educators.

Now more than ever, controversial political groups and theories, including whether CRT and other similar ideologies should be taught in schools, are a source of controversy. Some school administrators have denied teaching CRT and Marxist ideologies by name. Yet, parents with children in these same schools have provided examples that prove otherwise. This evidence includes, among many examples, a social studies lesson on the Civil War that instructs white students to stand and be recognized by the class as oppressors and called slaveholders. Another popular example is to assign anti-racist books in English class written by CRT advocates, including Ibram X. Kendi, author of *Stamped from the Beginning: The Definitive History of Racist Ideas in America* and Robin DiAngelo, author of *White Fragility: Why It's so Hard for White People to Talk about Racism*.

⁶ Indiana Academic Social Studies Standards, Indiana Department of Education, (accessed August 6, 2021), <https://www.in.gov/doe/students/indiana-academic-standards/social-studies/>.



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Parents also reported that schools use the “Teaching for Tolerance” curriculum, also known as “Learning for Justice.”⁷ This curriculum includes lesson plans that teach students to advocate for sanctuary schools, that the 1619 Project accurately reflects America’s founding that whiteness is a racial identity with white privilege and power, and that refusing the concept of gender fluidity is wrong.⁸ Not only does the curriculum promoted by “Teaching for Tolerance” include discriminatory CRT elements, but progressive ideologies that conflict with some students’ political and religious views. Several states have proposed and passed legislation designed to limit these controversial theories from classroom instruction. **Parents have the right to petition the IGA to pass similar legislation to address these ideologies’ polarizing effect on education instruction.**

Q: What are Social-Emotional Learning Competencies (“SEL”), and how are they implemented in Indiana Schools?

A: SEL involves teaching and facilitating skills that students need to be successful at home, at school, and in the workplace. IDOE guidance defines social-emotional learning as “the process through which children and adults acquire and effectively apply the knowledge, attitudes, and skills to . . . understand and manage emotions, set and achieve positive goals, establish and maintain positive relationships, feel and show empathy for others, and make responsible decisions.”⁹ Such attitudes and skills are difficult for people to develop, particularly children, yet schools have assumed this responsibility. SEL programs represent a fundamental shift in the role of teachers from educators to therapists and expand the reach of government into domains of the family. Some schools may use SEL programs to assume powers over students’ mental health development beyond their training, expertise, and authority under the U.S. Constitution and Indiana law.¹⁰

⁷ Jalaya Liles Dunn, *Our New Name: Learning for Justice*, Learning for Justice, (February 3, 2021), <https://www.learningforjustice.org/magazine/our-new-name-learning-for-justice>.

⁸ See generally <https://www.learningforjustice.org/classroom-resources/lessons>; see also <https://www.learningforjustice.org/classroom-resources/learning-plans>.

⁹ Christy Berger and Lisa Truitt, *Indiana’s Social-Emotional Learning Competencies: Serving the Whole Child*, Indiana Department of Education, (accessed September 22, 2021), <https://inacac.org/resources/Documents/Indiana’s%20Social-Emotional%20Learning%20Competencies%20Serving%20the%20Whole%20Child.pdf>

¹⁰ Robert Pondiscio, *The unexamined rise of therapeutic education: How social-emotional learning extends K-12 education’s reach into students’ lives and expands teachers’ roles*, p 9, (October 13, 2021), <https://www.aei.org/research-products/report/the-unexamined-rise-of-therapeutic-education-how-social-emotional-learning-extends-k-12-educations-reach-into-students-lives-and-expands-teachers-roles/>.



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Indiana law provides authority for IDOE, along with other state stakeholders, to develop a children’s social, emotional, and behavioral health plan. Ind. Code § 20-19-5-1. This plan concerns, specifically, “comprehensive mental health services, early intervention, and treatment services.” Id. This plan is geared toward collaboration between the Department of Child Services, Department of Correction, and the Division of Mental Health and Addiction to assess and treat children’s social, emotional, and mental health issues. Id. While this law allows IDOE and other agencies to develop the Plan, it does not require schools to implement it, authorize school staff to perform mental health practices prohibited under existing laws, or create any new authorities for school-based personnel regarding identifying, assessing, treating, or tracking SEL related mental health issues.

IDOE must make recommendations to SBOE, who should adopt rules concerning the plan and conduct hearings on the implementation of the plan. Id. IDOE relies on this statute to support the application and integration of SEL competencies in schools. Indiana’s SEL competencies focus on five core social-emotional learning standards to foster the development of the following cognitive, affective, and behavioral domains: Self-Awareness, Social Awareness, Self-Management, Relationship Skills, and Responsible Decision-Making. In addition, Indiana adds two competencies built on an educational neuroscience foundation: Sensory Integration and the Mindset.

Q: Is SEL mandatory in Indiana schools?

A: Certain curriculum and recommendations made by IDOE, such as with SEL competencies, are discretionary. IDOE is only tasked with making recommendations regarding school social, emotional, and behavioral health plans. Ind. Code § 20-19-5-2. There is no provision provided under Ind. Code § 20-19-5-1 mandating SEL competencies in Indiana classrooms. However, the IGA passed legislation requiring certain career readiness and career development standards to be taught in grades K-12 (“Indiana Employability Skills Standards”). Ind. Code § 20-30-5-14. These standards are in addition to the required academic standards developed by IDOE pursuant to Ind. Code § 20-31-3-2. IDOE worked with the Department of Workforce Development to draft the Employability Standards, and they were adopted by the SBOE. Ind. Code § 20-30-5-14(c).

IDOE included three of the seven SEL competencies (which are discretionary) into the Indiana Employability Standards (which are mandatory). This created a backdoor for IDOE to require schools to teach these three SEL competencies as part of the state’s adopted standards. Ind. Code § 20-19-5-1. These skills standards include 1) Regulation – being able to recognize and manage one’s emotions, 2) Connection – being able to demonstrate the ability to network with others through social awareness and cultural sensitivity, and 3) Collaboration – being able to work well with others in a team.



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In summary, SEL competencies are not included as part of the adopted Indiana Academic Standards. However, three of these competencies have been established by IDOE and approved by SBOE to meet Indiana’s Employability Skills Standards, which are required to be included by schools in the curriculum. **If parents don’t want the Employability Standards under Ind. Code § 20-30-5-14 to include SEL, they have the right to petition the IGA to prohibit IDOE from adopting SEL practices as a means of meeting these standards. Additionally, a model set of employment standards and curriculum could be selected by the IGA and inserted verbatim into Ind. Code § 20-30-5-14(c) to replace the Employability Standards adopted by the SBOE.**

Q: What are “culturally responsive methods” of teaching?

A: Under Ind. Code § 20-28-3-0.3, “culturally responsive methods” refer to methods that use the “cultural knowledge, experiences, *social and emotional learning needs*, and performance styles of diverse students to ensure that classroom management strategies and research-based alternatives to exclusionary discipline are appropriate and effective for the students.” (emphasis added). Indiana educators can use SEL as part of a culturally responsive method of teaching. See Ind. Code §§ 20-28-3-3.5; 20-31-6-1; 20-31-6-2. These competencies, however, must be taught and applied in the classroom in a non-discriminatory fashion. **Parents have the right to petition the IGA to revise and further define “culturally responsive methods” to foster positive classroom relationships and school climates.**

Q: Are CT, CRT, CGT, or other controversial theories allowed to be taught through SEL?

A: No, but laws prohibiting such discriminatory teaching practices haven’t stopped schools from teaching these controversial theories and concepts in SEL programs. According to complaints made to the OAG, discriminatory teachings, such as CRT and the 1619 Project, are consistently being backdoored into Indiana classrooms, contrary to state and federal law. It is important to understand that critical theory principles can be taught without being labeled as CT or CRT. For example, IDOE’s guidance for Employability Skills Standards for grades 9-12 includes guidance for teachers that is aligned to elements of CRT, such as equity, activism, culturally responsive teaching behaviors, and a race-based viewpoint to approaching social situations and resolving conflict.¹¹ **If parents believe that the Employability Standards include CRT, they have the right to petition the IGA to correct this practice under the SEL statute. The Governor could also correct this deficiency since he appoints the Secretary of Education who oversees IDOE.**

¹¹ Grade Nine-Grade Ten Employability Standards, Indiana Department of Education, (accessed September 22, 2021), <https://www.doe.in.gov/sites/default/files/wf-stem/grade-nine-grade-ten-employability-skills-standards-final.pdf>.



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Indiana schools have witnessed an influx of SEL model practices utilized as a means of introducing distorted theories and activities aimed at making students feel bad about themselves. These methods are impermissible, encourage unequal treatment of students under the law, and are misaligned with the educational policy goals established by the IGA. At its core, SEL should teach students skills promoting self-awareness, professionalism, personal management, and taking responsibility for student learning. Theories that denigrate a class of students have no place in the classroom and cannot be utilized as an SEL practice. It is imperative that parents get involved and learn what is being taught in their classrooms. **If parents believe this to be discriminatory, they have the right to petition the IGA to tailor the SEL statutes to prevent the manipulation of SEL that allows controversial teachings and theories into Indiana schools. Moreover, the narrowing of this language would further support parents' rights to determine the religious and moral formation of their children.**

Q: Can parents opt their children out of certain curriculum or SEL?

A: It depends. Certain curriculum mandated by the IGA under Ind. Code § 20-30-5-5 and Ind. Code § 20-30-5-6 must be included in Indiana schools.¹² IDOE is only tasked with making recommendations regarding school social, emotional, and behavioral health plans. Ind. Code § 20-19-5-2. As a result, certain curriculum and recommendations made by IDOE, such as with SEL competencies, are discretionary.

Local school boards may also adopt locally approved curriculum pursuant to Ind Code § 20-26-3 provided it does not conflict with mandatory Indiana academic standards. This curriculum may not replace or amend any mandatory curriculum or otherwise supplement approved IDOE academic standards. If a school board adopts SEL as a locally approved curriculum, it has the option of making it mandatory. Local school boards decide the procedures for notice and options for parents to opt-out of locally approved curriculum. **If parents decide that a locally adopted curriculum should not be mandatory, they have the right to petition the IGA to legislatively prohibit schools from doing so. Moreover, the IGA could decide such locally approved curriculum should not be taught and legislatively prohibit the school district from teaching it.**

¹² See "What curriculum can parents opt-out of in school?" for explanation of mandatory curriculum.



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Q: What curriculum can parents opt-out of in school?

A: Parents can opt-out of evaluations or surveys on political affiliations, religious beliefs or practices, mental or psychological conditions, sexual behaviors, illegal behaviors, privileged or confidential relationships, and income if these evaluations and surveys are not related to academic instruction. Ind. Code § 20-30-5-17(b). Parents can also opt children out of instruction on human sexuality. Ind. Code § 20-30-5-17(c). Under state law, parents can only opt-out of these aspects of curriculum. Additionally, local school boards could allow parents to opt-out of additional activities and curriculum. Parents cannot opt-out of mandatory curriculum found at Ind. Code § 20-30-5. The mandatory curriculum referenced in this part of code includes all other courses and classes, such as math, science, government, English, history, etc. It also includes instruction in a variety of areas, including good citizenship, morals, bullying prevention, the Holocaust, Human Immunodeficiency Virus, safety, organ donation, and others.

As discussed above, school corporation powers (governed by local school boards) are broad and expansive, in part, because each school corporation is unique in its demographics and populations they serve. As a result, school boards should provide additional opt-out provisions for locally adopted curriculum to meet the needs of the populations they serve. Ind. Code § 20-26-3-3(b). **Moreover, the IGA could expand current law and allow parents to opt-out of more types of surveys and evaluations or types of instruction. Parents also have the right to petition the IGA to allow for opting-out of surveys even if the topic, such as political affiliations and religious practices, is related to academic instruction. These requirements could also be changed to require parents to opt-in instead of putting the onus on parents to opt-out.**



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Access to Public Records and Indiana's Open Door Law

Q: How do I obtain a copy of my child's school curriculum?

A: Contact your local school district. Indiana's Access to Public Records Act ("APRA"), Ind. Code §5-14-3-1 et seq., also provides the framework for requesting information from a governmental agency. Moreover, APRA states that, "it is the public policy of the state that all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees." Generally, school curriculum can be requested through your child's school district. School officials should provide you with a copy of approved curricula and address any concerns. You may also direct public record requests related to K-12 school academic standards to IDOE. However, some public records may not be disclosed under various exemptions or may be disclosed at the discretion of the Department. Some records are confidential by statute, while others may be protected by state or federal law. School districts have a statutory responsibility to tell you whether the records requested are "disclosable" or "nondisclosable." You have the right to view and copy all disclosable records. Schools must properly reference a statutory basis for non-disclosure of all or part of a public record to you.

Q: How can I obtain my child's lesson plans and activities in school?

A: A parent may obtain lesson plans and records of activities by contacting school administrators and teachers directly. A parent may also obtain these materials through a public record request, pursuant to Ind. Code § 5-14-3-1 et seq. However, these records may not exist in many circumstances because not all schools require daily lesson plans to be submitted or maintained. As such, parents are encouraged to continue a dialogue with teachers on what is being taught and what activities and lessons are experienced at school.

Q: How else can I inquire about the curriculum taught to my child?

A: As a parent, you may have the opportunity to provide comment and express concerns at public school board meetings. A "meeting" is a public forum accessible under Indiana law to any interested member of the public. The Open Door Law, under Ind. Code § 5-14-1.5-1, states that government agencies must hold official meetings of a majority of their governing body, such as council or board meetings, publicly. This includes local school boards.



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Meetings occur whenever a majority of the school board meets for the purpose of taking “official action upon public business.” “Official action” includes receiving information, deliberating, making recommendations, establishing policy, making decisions, and taking final action. While currently not required under the law, local school boards often encourage public participation and consider public comments before taking official board action.

Parents can also participate and provide comment at advisory committees created by statute to advise the school board. Committees appointed directly by the school board or its president must follow the Open Door Law requirements.

Q: Is public notice of a school board meeting required?

A: Yes. Forty-eight (48) hours’ advance notice is required. The posted notice should include the date, time, and place where a school board will convene. Notice must be posted at the meeting location. Lack of adequate notice constitutes a violation of the Open Door Law.

Q: Who can bring a complaint alleging a violation of the Open Door Law?

A: Any person aggrieved by a public agency’s action may make a complaint. Any person may also, prior to filing a lawsuit, seek an opinion from the Indiana Public Access Counselor on whether a meeting of a school board complied with the Open Door Law.

Q: Must a school board post its meeting agenda?

A: Pursuant to the Open Door Law, a school board that uses an agenda must post a copy of the agenda at the entrance of the location of the meeting before the meeting begins. The use of an agenda is not mandatory and can be amended. In addition, a school board must describe each agenda item specifically during a meeting and may not refer solely to an agenda item by number. The Open Door Law does not prohibit a public agency from changing or adding to its agenda during the meeting.



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Q: Can a parent request a modification to the agenda?

A: Yes. A parent may request a school board modify its agenda to address a discussion item of particular concern. However, if the school board utilizes an agenda, the agenda must be posted outside the location of the meeting before the meeting begins. The school board may decide to consider requests to modify or add agenda items during the public comment portion of the meeting or as proposed by an individual board member. A majority vote is necessary to add or amend agenda items. A parent may also request a school board to consider a particular agenda item before the meeting commences by contacting the school board's president or secretary. The school board has the authority to decline this request and the law does not provide for an appeal of its decision. **If parents want more control over setting the agenda at school board meetings, they have the right to petition the IGA to create it legislatively.**

Q: What is a consent agenda?

A: A consent agenda is an exception to the requirement that the school board must describe each agenda item in detail on the agenda. A consent agenda is a board meeting practice that groups routine business and reports into one agenda item. The consent agenda can be approved in one action, rather than approving motions on each item separately. Past practices by some boards may have included items such as the approval of curriculum into a consent agenda, believing it to be a routine business item. As a result, it is important for parents to thoroughly review consent agenda items listed on a board meeting agenda.

Q: Can the public prevent a consent agenda item vote?

A: Typically, consent agendas are for routine items and exist for efficiency purposes. Agenda items known to be of great interest to parents and members of the local community should be placed on the full agenda to provide transparency and opportunity for comment. However, there is no state law that requires it. Individual board members can also object to the consent agenda and offer a motion to move consent agenda items to the full agenda. Parents and members of the public typically cannot prevent board votes regarding properly noticed and posted board agenda items, but certainly can voice any concerns during a public comment period. **Parents have the right to petition the IGA to place limitations on the use of consent agendas in the interest of public access.**



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Q: Are school boards required to allow parents to speak at school board meetings and respond to their comments?*

A: Yes. The IGA passed Senate Bill 83 (P.L. 134-2022) and House Bill 1130 (P.L. 116-2022) during the 2022 legislative session. Both bills require local school boards to allow public comment periods at school board meetings by amending Indiana's Open Door Law to make public comment periods mandatory for in-person participation.¹³ See generally Ind. Code § 5-14-1.5.

Despite this, current law provides no requirement that board members respond to public comments. Generally, school boards will not immediately respond in depth to public comments for efficiency reasons. The board may also want time to consider the comments before responding. However, sometimes the board votes on an item at the same meeting when accepting public comments. In those instances, the board members likely will not have adequate time to reflect upon comments before voting. Despite these considerations, parents should exercise this important right to be heard at school board meetings.

Q: What rights do I have as a parent to express concerns to school board members and school officials?*

A: The Supreme Court has recognized the vital role that citizen participation in government plays and the guarantee of that participation, including the free discussion of governmental affairs, under the First Amendment. The First Amendment protects a parent's right to free speech when public comments are permitted at school board meetings. Public meeting policies typically include rules related to conduct and decorum and public comment parameters, such as time-limits and limiting comment to noticed agenda items. Indiana law requires Indiana school boards to allow public comments at school board meetings. See generally Ind. Code § 5-14-1.5 A parent cannot be thrown out of a school board meeting simply because he or she disagrees, antagonizes, or harshly criticizes a school board or its members during a public comment period. Board action censoring and suppressing parent comments made during a public comment period will ultimately raise free speech violation concerns under the First Amendment.

¹³ Ind. Code § 5-14-1.5-3, effective July 1, 2022.



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Parents' ability to question and address school officials and school board members is not limited to public comment periods at school board meetings. Parents can express concerns to school officials in-person, by letter, phone, or via other electronic communication like email, text, or social media. Civil and respectful dialogue is always encouraged when disagreements arise between school officials and parents. Any speech containing obscene language or that threatens, incites, or encourages others to violate the law will be subject to school censor and potentially reported to law enforcement. However, schools cannot constrain speech or expression simply because it is disagreeable. Specifically, regarding social media platforms, schools cannot act as policing forces of what speech is permissible and what speech is punishable by social media ban. To do so would constitute a violation of the First Amendment.

Q: Can a school block a parent from receiving information from social media or other releases of information?

A: No. Generally, schools cannot block or prevent parents from receiving governmental information that is otherwise available to the public and from commenting on social media. Blocking parents from social media violates the Constitution because it prevents parents from receiving publicly available information and prevents them from participating in a government-sponsored public forum.



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Parent Participation, Procedural Rights, and Remedies

Q: How can parents impact academic standards and content?

A: The standards revision process is a collaborative one. As such, parents interested in serving on IDOE committees should contact IDOE via their website. See “Additional Resources” for more details. Parents should maintain a record of the date of contact, whether you received a response, the date on which a reply was received, and if denied participation, the reason given. School curriculum should reflect this collaborative approach, so students are exposed to contrasting or opposing viewpoints. Parents may also comment on academic standards by commenting at school board meetings during public comment periods, expressing concerns to school officials, contacting IDOE, and contacting their local legislators. Intrinsic to the legislature’s duty to enact mandatory and optional curriculum studies is a duty to review and refine those standards, as well as identify subject matter requiring prior consent for a student’s participation under Ind. Code § 20-30-5-17(b). Parents should review curriculum adopted by local school boards and, if objectionable content is found, have the right to bring it to the attention of their legislators. As noted earlier, the IGA has the authority to enact the subjects, courses, and curriculum students learn and do not learn at school.

Of particular note, SBOE must coordinate with IDOE to establish standards for civic education not later than July 1, 2022. Ind. Code § 20-19-2-14.7. The civic standards established may only be changed by the express authorization of the IGA. It is imperative that parents discuss civics curriculum with their children, teachers, and school boards to understand how the new standards will be taught in the classroom. If parents find concerns, they should communicate them to members of the IGA and discuss solutions. Parents are also encouraged to visit the resources provided at the end of this guide and regularly visit the IDOE and SBOE websites for updates to state standards and opportunities to apply for membership on IDOE standards committees.

Q: What are some ways I can hold my local school board accountable regarding curriculum and content?*

A: Follow their social media accounts, review their public comments, and review school board meeting minutes. Contact your school board members directly and ask them their positions on the issues parents care about and how they are preventing these issues from entering the classroom. Attending your local school board meetings and getting your elected officials on the record is helpful; however, it is imperative to understand the political undertones resonating within a school board itself. Grow your network of other parents and attend school board meetings as a group to share unified concerns.



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For example, if your school board has publicly opposed CRT and other controversial theories, continue to work with your school board to review curriculum so that CRT teachings cannot be introduced or masked in other materials or SEL competencies. Using the same example, be sure that your school board is not allowing CRT or similar Marxist ideology to be taught under some other name, remembering that it's not what it's called that matters, but the pedagogy (method) and content being utilized. Parents should also continue to request copies of curriculum and classroom content by contacting their child's teacher or school administrator.

For public schools designated by the IDOE as an "Indiana Family Friendly School," the IDOE must conduct an assessment of parent participation in the school if requested by 10% of the school's parents. Ind. Code § 20-19-6.2-1. This assessment could allow for the identification of obstacles that prevent parents from having access to and control over the curriculum or educational activities conducted by the school.

Q: What other legal rights can I assert on behalf of myself or my child?

A: Indiana law prohibits segregation, separation, or discrimination by a public school against any of its students on the basis of race, creed, or color. Ind. Code § 20-33-1-5. Three important legal rights exist for all Indiana parents:

- 1) The First Amendment right to protect your child from compelled government speech in a school setting,
- 2) The Fourteenth Amendment right for all students to receive equal protection under the law, and
- 3) The Civil Rights Act of 1964 prohibits public institutions from discriminating on the basis of race.

In addition, parents should follow any available administrative processes provided by their school districts and seek written determinations. Parents may also have certain administrative rights under the Administrative Orders and Procedures Act ("AOPA"), which governs administrative proceedings and judicial review of certain decisions of IDOE and other State agencies. *See, e.g.,* Ind. Code § 4-21.5-2-0.1 to 6. AOPA includes procedural requirements for adjudications, sets out resolution of alleged violations of state rules or state statutes, and provisions for judicial review of agency actions. *Id.*

For complaints made with IDOE, an investigation may be conducted in accordance with Ind. Code § 4-21.5-2.5. The purpose of the investigation is to uncover facts with an eye toward a corrective plan or order and, if necessary, an enforcement action. *See* Ind. Code §§ 4-21.5-2.5-7 and -10. AOPA also provides for judicial review of a final agency decision or an "agency action," which is defined as "(1) the whole or part of an order, (2) failure to issue an order, or (3) an agency's performance of, or failure to perform, any other duty, function, or activity." Ind. Code § 4-21.5-1-4. Final IDOE decisions can be judicially reviewed by an appropriate Indiana court of competent jurisdiction.



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Q: How can I protect my child's free speech rights in school?

A: In addition to protections afforded under the federal constitution, the IGA has established a strong interest in protecting the free speech rights of students. Courts have long acknowledged the freedom of political expression among students in the school setting. Simply put, students do not shed their constitutional rights to freedom of speech or expression at the school doors. Of equal importance, students should never be compelled to confirm or declare certain personal beliefs. For example, a student should never be compelled by a school or school official to declare religious beliefs or political affiliations.

Parents should also be cognizant that First Amendment rights are not absolute and school corporations may reasonably regulate them, consistent with fundamental constitutional safeguards designed to maintain equal access to education and control disruptive conduct in schools. However, the banning of expression of one particular opinion or display, at least without evidence that it is necessary to avoid material and substantial interference with schoolwork or discipline, is not constitutionally permissible. For more information on students' First Amendment Rights, please see our advisory opinion on Black Lives Matter as a political organization.¹⁴

Any adopted school policy must be reasonable and implemented uniformly and consistently. A school should not arbitrarily select what political speech it wants to promote and what speech it wants to suppress. Parents should continue to advocate for school boards to adopt neutral policies. This uniform application will reduce concerns of First Amendment violations or potential claims about arbitrary school decision-making. Most importantly, the adoption of neutral policies helps support equality in education and the mission of all Indiana schools to provide the best education for all our children.

Q: What if I have a complaint about the curriculum taught at my child's school?

A: Parents or community members having questions, concerns, and complaints about any aspect of the operation of a school corporation, including curriculum, may contact the person having knowledge or responsibility of a particular situation. This would be the teacher first, then the school administrator closest to the situation in most cases. A school administrator may address a complaint related to curriculum by examining teacher lesson plans, written materials provided to students, and classroom discussion. Ultimately, a school administrator will determine whether curriculum is aligned with approved IDOE academic standards.

¹⁴ See Official Opinion 2021-2, <https://www.in.gov/attorneygeneral/files/Official-Opinion-2021-2.pdf>.



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If a satisfactory response is not received, then the parent or community member should take the issue to the next higher level of administration at the district level. After exhausting efforts to find a satisfactory response at the administrative level, the individual may bring the matter in writing to the attention of the school board president.

IDOE implements and oversees Indiana law related to school curriculum. Standards may be reviewed and altered as needed. Accordingly, interested parents may advocate why standards should be reviewed or modified through local school officials, board members, legislative representatives, and IDOE officials.

Written complaints regarding teacher conduct, including teaching curriculum not related to the Indiana Academic Standards, and educator licensing can also be made after fulfilling the above steps. IDOE has not adopted a formalized complaint process regarding curriculum but does maintain an online form with various topics parents can utilize, including “Student Education,” “Student Learning,” “Educator Licensing,” and “Legal.” IDOE will review and investigate upon receipt of a complaint submitted through this process.¹⁵ **If parents desire a different process to register complaints against licensed teachers administered by an entity independent of IDOE, they have the right to petition the IGA to create it.**

Q: What is Title VI of the Civil Rights Act, and why does it apply to education? *

A: Title VI of the Civil Rights Act of 1964 (“Title VI”) protects students who attend federally funded institutions from discrimination and race-based harassment. Title VI prohibits any institution receiving federal funding from discriminating or excluding individuals on the basis of race, color, or national origin.

Q: How can Title VI be violated and how are complaints investigated? *

A: The U.S. Supreme Court has held that any discrimination found to violate the Equal Protection Clause committed by an institution accepting federal funds also violates Title VI. Harassment of students on the basis of race, color, or national origin cannot be tolerated. Any such incidents are a major concern of the OAG. Racial harassment denies students the right to an education free from discrimination.

Furthermore, schools receiving federal funds may not retaliate against any person or student because he or she opposed an unlawful educational practice or policy, or made charges, testified, or participated in any complaint action under Title VI. A school or school district found to have retaliated in any way is considered in violation of Title VI.

¹⁵ To submit a complaint, see <https://www.in.gov/doe/about/contact/>.



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A violation of Title VI can also occur if a school or school district is found to be responsible for creating a racially hostile environment. To establish a violation of Title VI due to a hostile environment, there must be a determination that 1) a racially hostile environment existed, and 2) the recipient of federal funds had actual or constructive notice and failed to respond adequately to address the racially hostile environment. If a violation is found, the school or school district may be required to adopt new policies and procedures to address the incident. Title VI also allows for a private right of action alleging discrimination, where a complainant may seek monetary damages in court.

Q: How else can I file a complaint if I feel my civil rights were violated?

A: You may file a complaint with the U.S. Department of Education’s Office of Civil Rights (“OCR”) or the Indiana Civil Rights Commission (“ICRC”). See “Additional Parent Resources” for more information about how to file a complaint.

Q: What civil rights laws does the U.S. Department of Education’s Office of Civil Rights oversee? *

A: The OCR investigates Title VI complaints to determine if an institution accepted, tolerated, or failed to correct instances of racial harassment, discrimination, or a racially hostile environment. The OCR enforces several federal civil rights laws that prohibit discrimination in programs or activities that receive federal financial assistance from the U.S. Department of Education.

Common OCR complaints of federal law relate to:

- 1) discrimination on the basis of race, color, and national origin as prohibited by Title VI of the Civil Rights Act of 1964;
- 2) discrimination on the basis of sex as prohibited by Title IX of the Education Amendments of 1972, and;
- 3) discrimination against persons with disabilities as prohibited by Section 504 of the Rehabilitation Act of 1973 and Title II of the Americans with Disabilities Act of 1990.

These civil rights laws extend to all federally funded school systems, including elementary and secondary school systems.



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Q: Who can file an OCR discrimination complaint?

A: Any person or organization can file an OCR discrimination complaint. The person or entity filing the complaint need not be a victim of the alleged discrimination. They may complain on behalf of another person or group but must first obtain written consent from the individual or individual's parent or guardian.

A complaint must be filed within 180 days of the last act of discrimination or demonstrate good cause for why a complaint was not filed within the 180-day period.

OCR recommends (but does not require) a potential complainant to use an institutional grievance process before filing a complaint with OCR. School grievance processes vary from district to district, and some may be more informal than others. If a complainant uses an available institutional grievance process and also chooses to file the complaint with OCR, the complaint must be filed with OCR within 60 days after completion of the institutional grievance process.

Q: How can I file an OCR complaint?

A: OCR provides an online form which can be submitted online, mailed, or faxed: www.ed.gov/about/offices/list/ocr/complaintintro.html. Individuals or organizations can also write their own letter and include the following:

- The complainant's name, address and, if possible (although not required), a telephone number where the complainant may be reached during business hours;
- Information about the person(s) or class of persons injured by the alleged discriminatory act(s) (names of the injured person(s) are not required);
- The name and location (city and state) of the institution that committed the alleged discriminatory act(s); and
- A description of the alleged discriminatory act(s) in sufficient detail to enable OCR to understand what occurred, when it occurred, and the basis for the alleged discrimination.



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Q: What potential damages/remedies are available?

A: If OCR determines that a recipient failed to comply with applicable laws, OCR will contact the recipient and will attempt to secure the recipient's willingness to negotiate a voluntary resolution agreement. A resolution agreement may include remedial actions, terms and conditions, and ways of addressing noncompliance identified by OCR. OCR will monitor the recipient's implementation of the terms and obligations of the resolution agreement to verify that the remedial actions agreed to by the recipient are properly implemented.

Failure to agree or correct noncompliance may result in OCR initiating proceedings to suspend, terminate, or refuse federal financial assistance to the recipient, or may refer the case to the DOJ.

Q: What civil rights laws does the Indiana Civil Rights Commission oversee?

A: Among other things, the Indiana Civil Rights Law ("ICRL") explicitly conditions the ICRC's exercise of its enforcement powers to incidents where a person has engaged in an unlawful discriminatory education practice. Ind. Code § 22-9-1-3(1) and Ind. Code § 22-9-1-6(j)3.

Per Ind. Code § 22-9-1-2(b), the purpose of the law is to promote "equal opportunity without regard to race, religion, color, sex, disability, national origin, or ancestry through reasonable methods."

The ICRL defines a discriminatory practice as follows:

- (1) The exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;
- (2) A system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;
- (3) The promotion of racial segregation or separation in any manner, including but not limited to inducing or attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry; or
- (4) A violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4) I.C. § 22-9-1-3(l).



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Q: How can I file an ICRC complaint?

A: Complaints of discrimination can be submitted by phone, by mail, in person, or through an online complaint form. ICRC outlines its basic process in screening and reviewing claims on its website. *See* “Additional Parent Resources” for more information.

Q: Who can file an ICRC discrimination complaint?

A: Similar to OCR complaints, anyone can file a complaint. Complaints are pre-screened for jurisdiction.

Q: What potential damages/remedies are available?

A: If the ICRC determines that a person has committed an unlawful discriminatory practice, it shall order that person to “cease and desist from the unlawful discriminatory practice and require the person to take further affirmative action” Ind. Code § 22–9–1–6(j). The ICRC may order the person who committed unlawful discrimination to pay damages and post a notice of Indiana’s public policy concerning civil rights and the person’s compliance with that policy, among other actions.

Q: What if I believe that my child or I have been the subject of retaliation based on a complaint of discrimination?

A: Most civil rights statutes contain anti-retaliation provisions that protect individuals who complain about unlawful discrimination. For example, with respect to alleged race discrimination by schools, Title VI’s implementing regulations state that no recipient of federal funding “shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with any right or privilege secured by [Title VI] . . . because he has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding or hearing under [Title VI].” 34 C.F.R. § 100.7(e). As discussed above, OCR has jurisdiction over complaints of retaliation under Title VI, or in the alternative, individuals may file suit in state or federal court.

Similar anti-retaliation provisions exist under Indiana law. With respect to complaints under Indiana’s Civil Rights Laws, retaliation is specifically prohibited under the statute, “[t]he commission shall prevent any person from discharging, expelling, or otherwise discriminating against any other person because the person filed a complaint, testified in any hearing before this commission, or in any way assisted the commission in any matter under its investigation.” Ind. Code § 22–9–1–6(g).



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Q: How can I run for my local school board?¹⁶

A: Accountability in our schools requires each parent to examine what content is being presented to children in the classroom and what elected officials and school administrators are doing to maintain the best interests of our children. Parents interested in running for their local school boards should be educated on CRT and other controversial theories and work to hold school officials accountable for the content being taught in their schools.

The ability to run for local school board depends on the local school corporation. The procedures for selecting school board members are usually set forth in the “school corporation organization plan” adopted by the school corporation during the school consolidation process of the 1950s and 1960s, and as subsequently amended. Ind. Code § 20-23. In certain school corporations, all or some of the school board members are appointed rather than elected by the voters. Ind. Code § 20-23-4-28. All school corporations that elect school board members elect those members at the same time as the general election. Some school board members are elected “at large” for the entire school corporation, while others are elected to represent specific districts that are only part of the school corporation’s territory. In all cases, candidates for school board appear on the ballot without a party designation. Ind. Code § 20-23-4-29.1. **If parents want school board candidates’ party affiliation to be displayed on the voting ballot, they have the right to petition the IGA to create a law requiring it.**

School board candidates in certain jurisdictions must consult state statute for specific and detailed candidate qualifications and election procedures: Gary, Hammond, Indianapolis, Lake Station, South Bend, Mishawaka, East Chicago. See generally Ind. Code §§ 20-23-12 through 17.2. In all other cases, candidates must 1) reside in the school corporation for at least one year before the election; 2) be registered to vote; and 3) not have committed a felony (with certain exceptions). See Ind. Code § IC 3-8-1. A candidate has numerous filing requirements outlined explicitly in the Indiana Election Division’s Candidate Guide.

¹⁶ This answer was, in part, taken from and credited to the Indiana Election Division. 2020 Indiana Candidate Guide, (accessed August 11, 2021), <https://www.in.gov/sos/elections/files/2020-Candidate-Guide.MOVEDPRIMARY5.pdf>.



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Q: What is the Secretary of Education's Role?

A: The Secretary of Education is appointed by the governor and serves as the chief executive officer for the Department of Education. The individual appointed must 1) reside in Indiana for two years before the appointment, 2) demonstrate leadership and success in the administration of education, 3) possess an earned advance degree, and 4) is or has been a teacher, principal, or superintendent.

The Secretary is a new administrative role as the Superintendent of Public Instruction previously served in this capacity as a statewide elected official. The IGA passed a law in 2017 to transition from an elected Superintendent of Public Instruction to an appointed Secretary of Education but set the transition date at 2025. After the previous Superintendent announced she would not seek a second term, legislators accelerated the timeline to 2021.

Q: How does an individual become a member of the Indiana State Board of Education?

A: The bipartisan board is composed of eleven members, including the Secretary of Education who was elected in 2021 by the Board to sit as the Board's chair. Eight members are appointed by the Governor and must include: 1) at least six appointees with professional experience in the field of education; 2) not more than one appointee from a particular congressional district; and 3) not more than five appointees belonging to the same political party. The remaining two board members are appointed by the Speaker of the Indiana House of Representatives and the President Pro Tempore of the Indiana Senate, respectively.

Q: How can I participate in the Indiana State Board of Education meetings?

A: The State Board of Education shall, at its regular monthly business meetings, accept comment from any interested person on items that appear on the SBOE's agenda for that meeting as well as general public comment. A person who desires to speak must register on the meeting day before the meeting begins. Statements on agenda items are limited to five minutes, while general public comments are limited to three minutes in length. Written comments may be submitted to SBOE.



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Q: My child's school receives Title I funding. What rights does this provide?

A: Title I funding from the federal Elementary and Secondary Education Act ("ESEA") provides financial assistance to local education agencies for children from low-income families to ensure that all children meet challenging state academic standards. This federal funding is allocated at the district level in each state. School districts in the highest poverty quarter have the highest total Title I allocations per formula-eligible child.

The ESEA, Section 1116, requires that parents be offered substantial and meaningful opportunities to participate in the education of their children and explicitly mandates parent consultation in all required planning, including the development of Title I applications, school-wide plans, and improvement plans for low-performing schools. Indiana schools receiving Title I funding should hold an annual meeting advising parents of their right to be involved in flexible meetings and planning of programs. Parents will also have an opportunity to develop policy in collaboration with the Title I school. Interested parents should work directly with school officials to assure transparency and adequate opportunity for their voices to be heard.

PARENT MEDICAL RIGHTS

Provided by Indiana Attorney General Todd Rokita



A roadmap for Hoosier parents and caregivers
to exercise their legal right to direct their
children's education • Volume II





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Volume II: Parent Medical Rights - Medical Decisions

Q: Who has the authority to make medical decisions for children?

A: Parents are best situated to understand the unique needs of their children and to make decisions in their best interest. Accordingly, a parent or legal guardian has the right to make medical decisions for his or her child, including the right to refuse treatment except in life-threatening situations. The Fourteenth Amendment to the U.S. Constitution provides a parent or legal guardian with this fundamental right to make decisions regarding their minor children's care, custody, and control. In Indiana, an adult is considered to be a person at least eighteen (18) years of age. Ind. Code § 1-1-4-5(a)(1). Otherwise, consent must be obtained from the minor child's parent or legal guardian before receiving medical treatment.

Q: Are there instances when students' medical care at school does not require parental consent?

A: Yes. Parental consent is not required in instances where students need emergency nursing care or when an illness or accident occurs during school hours or on or near school property. Ind. Code § 20-34-3-6. Also, when a parent is not available to give consent and delay in treatment would be life-threatening or cause the child serious harm, consent is presumed. Consent must be obtained for any ongoing treatment.

Q: What medical care can children receive at the nurse's office at school without parental knowledge?

A: A school may appoint physicians or nurses who are registered to practice nursing in Indiana with the responsibility of providing emergency care for students when an illness or accident occurs. Ind. Code § 20-34-3-6. This medical care may be provided during school hours on or near school property. Id. The governing body of a school corporation may provide for inspection of students by the school physician to determine if a child suffers from disease, disability, decayed teeth, or other defects that may affect the student's efficiency in schoolwork. Ind. Code § 20-34-3-4. However, if a parent furnishes an examination from an Indiana certified physician at the beginning of the school year, the child is exempt from the exam. Ind. Code § 20-34-3-5.



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Q: When can parental authority to make medical decisions for their children be challenged?

A: Medical caretakers have an ethical and legal duty to advocate for the best interests of the child when parental decisions are potentially dangerous to the child's health, imprudent, neglectful, or abusive. As a general rule, parental decisions are challenged when decisions place the child at significant risk of serious harm. More specifically, parental decisions may be challenged under Indiana law when seriously endangering a child's physical or mental health. *See* Ind. Code § 31-34-1-2.

Q: When can the State make medical decisions for a child?

A: The State's authority to intervene in medical decisions is found in State law permitting a court to declare that a child is neglected for various circumstances under which a child becomes a child in need of services. *See* Ind. Code § 31-34-1. Generally, a child needs additional government services if, before the child becomes eighteen (18) years of age, the child is subjected to neglect, physical or emotional abuse, endangerment, or is the victim of a crime. In Indiana, the Department of Child Services files juvenile court cases when abused children are in need of services ("CHINS"). Ind. Code § 31-34-9. A CHINS adjudication under Ind. Code § 31-34-1-1 requires three basic elements: 1) that the parent's actions or inactions have seriously endangered the child, 2) that the child's needs are unmet, and 3) that those needs are unlikely to be met without State coercion. Id. Trial court adjudications can be appealed to the Indiana Court of Appeals.



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Student Education and Health Records

Q: Under the Family Educational Rights and Privacy Act (“FERPA”), what information must be disclosed to parents?

A: FERPA is a federal law that governs the privacy of student education records. FERPA’s privacy protections extend to “education records” and “personally identifiable information” contained therein, with such protections held by the parent/guardian until the student reaches the age of 18 or enrolls in postsecondary education (thereby becoming an “eligible student”). 34 CFR § 99.3; 34 CFR § 99.5(a)(1). “Education records” are broadly defined to include records “directly related” to a student, maintained by an educational agency or institution or by a person acting for such agency or institution. 20 USC § 1232g(a)(4); 34 CFR § 99.3. As such, parents are entitled to documents and records directly related to the student that are maintained in the school’s possession.

School policies regarding the sharing of student information (as opposed to a document or record) should reflect a transparent approach to keep parents informed of a child’s social, mental, and educational progress. Teachers and administrators should communicate concerns about matters which may adversely affect a student’s education and a student’s home environment directly with parents.

Q: Under FERPA, what other information regarding my child’s medical history can be disclosed to third parties without my consent?

A: FERPA permits disclosures necessary to protect the health and safety of students or other individuals. A school district may consider the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If the educational agency or institution determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. 34 CFR § 99.36.

Alternatively, if an educational official determines that a disclosure must be made but also determines that the health and safety exception (or other applicable exception) does not apply, then the official should obtain written consent from a parent, guardian, or adult student prior to the disclosure. This “health or safety emergency” exception to FERPA’s general consent requirement is limited in time to the period of the emergency and generally does not allow for a blanket release of personally identifiable health information, otherwise known as “protected health information” or “PHI,” from student education records.



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In addition to the health and safety exception, FERPA allows schools and educational agencies to disclose personally identifiable information, including mental, physical, and medical health information, to teachers and other “school officials,” without parental consent, if these “school officials” have been determined to have “legitimate educational interests” in the education records. See 20 U.S.C. § 1232g(b)(1)(A); 34 CFR §§ 99.7(a)(3)(iii) and 99.31(a)(1)(i)(A). This language is broad and allows for disclosures of this personal health information to be shared widely without parental consent. **FERPA is a federal law; thus, the IGA cannot change it. However, parents wanting control over the disclosure of their child’s mental, physical, and medical health information collected by the school have the right to petition the IGA to prohibit schools from including such information in the student’s education record.**

Finally, it is worth noting that educational records maintained on children with disabilities may be covered under both FERPA and the Individuals with Disabilities Education Act (IDEA), a federal law that provides heightened protection to students with disabilities. See generally 34 CFR part 300. IDEA’s confidentiality provisions are similar to FERPA but broader. The IDEA governs how states and public agencies provide early intervention, special education, and related services to children with disabilities. As such, it is critical for parents to understand how to advocate for their child when a school fails to provide services related to their child’s unique needs. See “Additional Resources” for more information on how to file an IDEA complaint on behalf of students with disabilities. Unlike the IDEA, FERPA has been interpreted to not include a private cause of action, and therefore individuals cannot file a civil lawsuit based on an alleged FERPA violation. However, parents and students over 18 years old can submit a complaint directly to the U.S. Department of Education. Violations of FERPA, such as an educational institution failing to allow a parent access to their child’s education record or refusing to correct inaccurate information included in the record can be resolved through the complaint process. See “Additional Parent Resources” for information on how to file a FERPA complaint.



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Q: What is HIPAA, and does it apply to my child's information in a school setting?

A: The Health Insurance Portability and Accountability Act ("HIPAA") is a federal law that governs the privacy of PHI. HIPAA applies to "covered entities," which is a term used to describe health care providers, health plans, and healthcare clearinghouses. In addition, HIPAA requirements may extend to insurance carriers and business associates. *See* 45 C.F.R. § 160.102(b).

In most cases, schools are not entities covered by HIPAA, and therefore HIPAA requirements generally do not apply to schools. In addition, education records covered by FERPA are explicitly excluded from the definition of PHI. This is true even if PHI happens to be contained within an education record. As a result, schools and their on-site nursing services are generally not required to comply with the HIPAA privacy protections because the school maintains health information only in student health records that are "education records" under FERPA and, thus, not 'protected health information' under HIPAA. **As noted above, the IGA could prohibit schools from including medical, physical, or mental health information in the student's education record. While this would not make the information protected by HIPAA, it could not be shared as part of an education record.**

Q: In regard to COVID-19, what student information can be shared by my child's school or school district to local health officials without parental consent?

A: In addition to reporting requirements implemented by the State Department of Health pursuant to Ind. Code § 16-41-2-1, a school or school district may determine that a real and significant threat exists to the health or safety of a student or greater student population related to COVID-19. As a result, under FERPA it is permitted by law to disclose, without prior written consent, PHI from student education records, positivity tests, and contact trace data to appropriate officials at a public health department who need the information to protect the health or safety of the student (or another individual). Public health department officials may be considered "appropriate parties" by an educational agency or institution under FERPA's health or safety emergency exception, even in the absence of a formally declared health emergency. Generally, public health officials are considered appropriate parties to whom PHI from education records may be non-consensually disclosed under FERPA's health or safety emergency exception.



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Vaccinations in School

Q: Can vaccinations of minors be mandated?

A: Indiana law does not require COVID-19 vaccination for Indiana's K-12 students. However, Indiana law requires that every child enrolled in an accredited K-12 school be immunized against certain diseases unless the parent objects on religious grounds or the immunization would be detrimental to the health of the student. Ind. Code § 20-34-4-2. Mandatory immunizations are determined by the Indiana State Department of Health and adopted by IGA. *Id.* The Department may also expand or modify the list of communicable diseases that require documentation of immunity as medical information becomes available that would warrant the expansion or modification in the interest of public health. Before November 30 of each year, the Department is required to publish a two (2) year calendar of immunization requirements and recommendations. The calendar must include: (1) the immunization requirements for the following school year; and (2) recommendations for immunization requirements for the year subsequent to the following school year. Ind. Code § 20-34-4-2(c). The calendar timeframe described above may not apply in the event of an emergency as determined by the state health commissioner. Ind. Code § 20-34-4-2(d). In addition, public schools (elementary and secondary) are required by Ind. Code § 20-34-4-1 to keep an immunization record for each student.

Q: Can a school district perform COVID-19 testing without parental consent?

A: No. Indiana schools cannot conduct virus testing on children without permission from a child's parent or legal guardian. Administering virus testing without parental consent would violate a child's constitutional rights, specifically, the Fourteenth Amendment to the U.S. Constitution, which provides a fundamental right for a parent or legal guardian to make decisions regarding their minor children's medical care and treatment.

Q: Can children be vaccinated without parental permission?

A: No. As discussed above, minor children must have permission from parents or legal guardians regarding health care decisions, including vaccinations. *See* Ind. Code § 16-36-1-3(a).



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Q: What is an Emergency Use Authorization (EUA)?

A: An Emergency Use Authorization (EUA) is a mechanism to facilitate the availability and use of medical countermeasures, including vaccines, during public health emergencies, such as the current COVID-19 pandemic. Under an EUA, the U.S. Food and Drug Administration (“FDA”) may allow the use of unapproved medical products, or unapproved uses of approved medical products, in an emergency to diagnose, treat, or prevent serious or life-threatening diseases or conditions when certain statutory criteria have been met, including that there are no adequate, approved, and available alternatives. Once submitted, FDA will evaluate an EUA request and determine whether the relevant statutory criteria are met, considering the totality of the scientific evidence about the vaccine that is available to FDA. *See generally*, 21 U.S.C. § 360.

Q: What does full FDA approval of the COVID-19 vaccine mean, and what does it mean for schools?

A: Vaccine development is a complex science. Different than an EUA request, full FDA approval of vaccines is granted over time. Generally, full approval is granted when the FDA has compiled and reviewed additional scientific data and evidence to support the use of vaccines. Full approval is granted following a comprehensive review of data, vaccine efficacy, and safety standards showing that the benefits of the vaccine are greater than its risks. Ultimately, the FDA’s endorsement of the COVID-19 vaccine is its full endorsement that the vaccine can be manufactured reliably, safely, and with consistent quality.

Any additional vaccine requirements for Indiana school-aged children would require legislative approval and a determination by the Indiana State Department of Health that additional vaccine requirements are in the interest of public health. Ind. Code § 20-34-4-2(b). In addition, the Department would be required to adopt rules under Ind. Code § 4-22-2 specifying certain immunization requirements, required ages, dosages, and methodology for documenting proof of immunity. Ind. Code § 20-34-4-2(e). The Department of Health must follow the requirements of Ind. Code § 4-22-2 in issuing these rules, including public notice and comment and the submission of the rule to the OAG for approval. In addition, a public hearing is required for rule adoption. Parents may attend and comment on the proposed rule “through the presentation of oral and written facts or argument.” Ind. Code § 4-22-2-26(c). The attorney general can disapprove the rule for a variety of reasoning, including that the rule was (1) adopted without statutory authority; (2) adopted without complying with the requirements concerning the adoption of rules; or (3) violates another law. Ind. Code § 4-22-2-32. **The IGA has the authority to prohibit vaccine mandates for school-aged children. If parents believe a vaccine, such as the COVID-19 vaccine, should not be required for school-aged children, they have the right to petition legislators to create legislation to prohibit it.**



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Educational Accommodations

Q: What is required in schools for children with qualified disabilities?

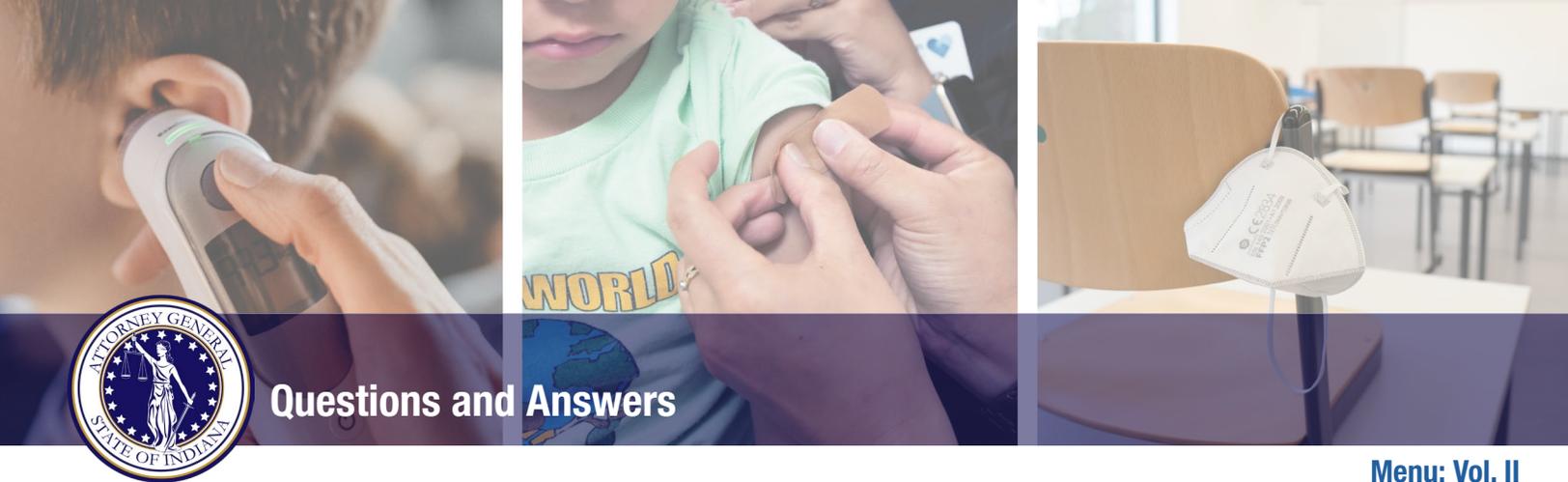
A: Parents of students with disabilities are entitled to certain protections under the law. Title II of the Americans with Disabilities Act (“ADA”) prohibits state and local governments (such as public school districts, public colleges, and universities) from discriminating against persons with disabilities. In part, Title II provides that “no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.” *See* 42 U.S.C. § 12132. Indiana public schools are required to provide accommodations and auxiliary services for students with qualified disabilities.

Indiana public schools must also assure every student with a disability receives a free appropriate public education (FAPE) guaranteed by the Rehabilitation Act of 1973 and the Individuals with Disabilities Education Act (IDEA). If you feel your child is not being granted his or her rights by not having his or her disability recognized or not being provided reasonable accommodations, parents and guardians may request a due process hearing according to their school’s Section 504 procedures or file a complaint with the OCR. For more information, *See* “Additional Resources.”

Q: Are there exceptions for students with disabilities if masks are mandated?

A: Yes. Public schools must make accommodations for students with disabilities who, because of their disability, cannot safely wear a mask.

The ADA protects qualified individuals with disabilities from discrimination by state and local government entities. Section 504 of the Rehabilitation Act applies to entities that receive public funds, and requires public schools to provide reasonable accommodations, so students with a disability receive similar educational services as their peers. Under Section 504, a student with a disability who cannot safely wear a mask because of their disability should not be required to wear one. For example, a person who would be physically unable to remove their mask if their breathing became obstructed should be able to obtain a medical exemption. Another example would be a person who would have respiratory distress issues if a mask were to be worn over the mouth and nose. Students requiring an assistive device for mobility or communication that prevents the person from wearing a mask may be entitled to an exemption.



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Furthermore, students with sensory disabilities or mental health conditions may be eligible for an exemption from the mask mandate due to a legally qualified disability.

It's likely every school district will have its own policies regarding medical and disability exemptions from masks. Please communicate with your child's school for specific guidance on complying with its procedures for recognizing mask exemptions. A public school may be in violation of the ADA and Section 504 by failing to make reasonable modifications to its mask policies. Parents of children with disabilities should consult with an attorney regarding whether their child is entitled to an accommodation or modification of school policy. Such modifications are necessary to allow immunocompromised students equal access under the law to educational services.

Q: How can parents object to masks in schools?

A: Parents can make their grievances known by addressing their school board members at publicly designated meetings during public comment periods and at the ballot box when a school board seat is up for election. Parents may also exercise their First Amendment right by communicating their concerns through electronic mail, letters, and other forms of communication. In Indiana, the absence of specific directions and/or limitations from the IGA leaves elected school boards the power to determine their respective school district's policy on mask-wearing. **If parents are unhappy with this decision-making process, they have the right to petition the IGA to pass legislation prohibiting mask mandates.**

School districts should also consider the long-term effects mask mandates have on young children, both socially and academically. Indiana school districts should be data-driven and not mandate masks arbitrarily. In considering the decision to mask children, there are no official guidelines that local school boards must follow. In general, local school board members consider several factors, including reliance on their own judgment, guidance from public health officials, the infection rates among children and community spread, and changing circumstances that merit lessening of restrictions. Although this is not always the case, it is best practice for school board decisions to reflect parent input and feedback from the communities they serve.



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Q: How can I request an Individualized Education Plan “IEP” on behalf of my child?

A: An “IEP” means a written document, developed, reviewed, and revised by a case conference committee, which includes parents and school personnel, in accordance with 511 IAC 7-42. The plan describes how a student with a disability shall access the general education curriculum, if appropriate, and the special education and related services needed to participate in the educational environment.

A parent can initiate a request to the school principal or special education administrator for an educational evaluation, either verbally or in writing, to determine if a student is eligible for special education services. After a parent makes a request, the school district has ten (10) instructional days to provide the parent with written notice that includes a statement and other factors relevant to their determination for proposing or refusing to conduct an educational evaluation. The required components of an IEP are contained in 511 IAC 7-42-6. They require schools to consider the strengths of the student, concerns of the parent for enhancing the education of the student, the results and instructional implications of the initial or most recent educational evaluation, and other assessments of the student, and the academic, developmental, communication, and functional needs of the student. 511 IAC 7-42-6(b). Schools must also consider special factors such as positive behavioral interventions and supports and other strategies to address any of the student’s behaviors that impede the student’s learning or the learning of others.

Q: Can a school modify the requirements of an IEP?

A: Schools must meet with parents periodically, but not less than annually, to review the student’s IEP and determine whether the student’s annual goals are being achieved. 511 IAC 7-42-9. Additional parent rights and remedies are outlined in rules and provide in part the right of parents to challenge proposed actions and changes to an IEP. See generally 511 IAC 7-42. Indiana law requires parent participation in meetings with school personnel implementing the IEP. In the event of disagreement, the process is outlined for parents to initiate mediation to resolve disputes and/or participate in a due process hearing. See “Additional Resources” for a link to the SBOE’s special education rules outlining the IEP process.



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Q: Can I revoke consent for the Special Education services my child is receiving?

A: Yes. Parents can revoke consent at any time when their school is providing special education services to their child. Specifically, an IEP can be reviewed and revised or terminated by a parent who revokes consent for special education and related services. See generally 511 IAC 7-42. For revocation to occur, it needs to be in writing and provided to school staff. However, before a school can stop providing the services, it must first provide the parent with written materials explaining the consequences of such a revocation. Once the parent receives the written notice describing the potential consequences of revoking the services, the school must then end the services to the student. The student will then be placed in a general education classroom and receive education services as a non-disabled student. When the student is placed in general education classes, the student's safeguards under Article 7 and the Individuals with Disabilities Education Improvement Act will cease. Indiana's special education rules can be read in their entirety at Title 511 IAC 7-32 through 47.

Q: What is homebound education?

A: Homebound education focuses on the rights of students to receive an education where circumstances may preclude them from physically attending school. Homebound instruction is defined as "instruction provided by a licensed teacher to students, in accordance with 511 IAC 7-42-11 and 511 IAC 7-42-12, including students without disabilities, who are unable to attend school." Homebound instruction may be provided: 1) at a student's home, 2) at a hospital, or 3) at another site. Homebound instruction may be provided "in person or by any other technology systems." 511 IAC 7-32-45.

Q: In what circumstances must a school offer homebound education when a student is unable to attend in person?

A: The IGA (and by delegation the SBOE) has recognized three general circumstances where students may be unable to attend school but are entitled to some form of homebound instruction:

1. Students with long-term or permanent disabilities who are entitled to receive services under the Individuals with Disabilities Education Act, 20 U.S.C.A. § 1400 et seq.;
2. Students with injuries and temporary or chronic illnesses who are entitled to receive services under § 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. § 794; and
3. Students without disabilities who are nevertheless unable to attend school. 511 IAC 7-32-45.



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Q: Can I request homebound instruction if my child becomes ill for an extended period of time?

A: Yes. The SBOE adopted a rule requiring all students with injuries and temporary or chronic illnesses that preclude their attendance in school, including students who are not eligible for special education and related services, to be provided with instruction.

Pursuant to 511 IAC 7-42-12(b), in order to be eligible for services, the parents of the student must do the following: Before instruction for a student unable to attend school can begin, the parent must provide the school corporation with a written statement from a physician (which includes a doctor of osteopathy) with a valid, unlimited license to practice medicine, or a Christian Science practitioner, that states one (1) of the following:

1. The student has a temporary illness or injury that will require the student's absence from school for a minimum of twenty (20) consecutive instructional days. If the:
 - (A) illness or injury occurs less than twenty (20) instructional days prior to the end of the school year; and
 - (B) student needs instruction to meet promotion or graduation requirements; the physician's statement must indicate that the student will be unable to attend school through the end of the current school year.
2. The student has a chronic illness or other medical condition that will require the student's absence for an aggregate of at least twenty (20) instructional days over the period of the school year.



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Sexual Behaviors and Abortion

Q: Can a school teach my child about human sexuality?

A: Yes. Pursuant to Indiana law, a school is required to teach abstinence-based instruction regarding human sexuality. Instruction on human sexuality or sexually transmitted diseases requires a teacher to teach abstinence from sexual activity outside of marriage as the expected standard for all school-age children. In addition, instruction will focus on abstinence from sexual activity as the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems. By law, school instruction will also include the best ways to avoid sexually transmitted diseases and other associated health problems by establishing a mutually faithful monogamous relationship in the context of marriage. Ind. Code § 20-30-5-13.

Ind. Code § 20-30-5-13 does not authorize “comprehensive” sex education, including curriculum aligned to the National Sex Education Standards¹⁷ endorsed by Planned Parenthood. States, such as California, have passed legislation requiring “comprehensive” sex education, which includes curriculum requiring teachers to “affirmatively recognize different sexual orientations and be inclusive of same-sex relationships in discussions,” and “teach about gender, gender expression, gender identity, and the harm of negative gender stereotypes.”¹⁸ While Indiana law does not authorize “comprehensive” sex education or curriculum aligned to the National Sex Education Standards, it does not explicitly prohibit them. However, it should be noted that schools are prohibited from asking students about their gender identity or sexual behaviors or attitudes in sex education classes, or any other classes, under Ind. Code § 20-30-5-17(b). **If parents want to ensure sex education classes do not teach concepts outside of those specifically authorized in law, they have the right to petition the IGA to pass legislation updating Ind. Code § 20-30-5-13 to specify what is not permitted in sex education classes.**

¹⁷ *National Sex Education Standards: Core Content and Skills, K-12, Second Edition*, Future of Sex Education, (2020), <http://www.advocatesforyouth.org/wp-content/uploads/2020/03/NSES-2020-web.pdf>.

¹⁸ AB 329 Pupil Instruction: sexual health education, California State Legislature, (2016), https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=201520160AB329.



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Q: Can a school teach my child about human sexuality without parental consent?

A: No. Consent is required. Before a school may provide a student with instruction on human sexuality, the school must provide the parent of the student with a written request for consent of instruction. Ind. Code § 20-30-5-17(c). The parental consent form must accurately summarize the contents and nature of the instruction on human sexuality. Parents have the right to review and inspect all material related to instruction on human sexuality. If parents do not respond to the notice concerning the instruction on human sexuality, the child will receive the instruction. Parents must formally opt-out to remove their child from the instruction. Ind. Code § 20-30-5-17(d). **Parents have the right to petition the IGA to amend this statute to require schools to request parents to opt-in to certain instruction on human sexuality, rather than putting the onus on parents to opt-out.**

Q: Can my child be prescribed birth control without parental consent?

A: No. Parents must provide consent for their unemancipated minor child to be prescribed any form of contraception.

Q: Can minors get access to abortions without parental consent?

A: No. Indiana law requires a minor seeking an abortion to receive the notarized written consent of the parent for the performance of an abortion. Ind. Code §§ 16-34-2-4; 16-18-2-267.

Q: Can my child be referred to or counseled on abortions at school?

A: No. Referral and counseling for abortions require parental consent, just as all other medical treatments. School corporations that enroll in a program to use federal funds under the Medicaid program are prohibited by Indiana law from providing abortions, abortion counseling, abortion referrals, abortifacients, or contraceptive services. Ind. Code § 12-15-1-16.

LIBERTY IN EDUCATION: SCHOOL CHOICE

Provided by Indiana Attorney General Todd Rokita



A roadmap for Hoosier parents and caregivers
to exercise their legal right to direct their
children's education • Volume III





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Volume III: Liberty In Education - Public Schools

Q: What are the various options for public education in Indiana?*

A: There are a variety of options within the public school system, including brick-and-mortar traditional schools, brick-and-mortar charter schools, virtual schools (traditional public and charter), magnet schools, and learning pods. Consistent with the Indiana Constitution Art. 8, §1, all types of public schools are open to all students and free of tuition.

Q: What is a traditional public school?*

A: Traditional public schools include brick-and-mortar schools that are under the control of a school corporation, subject to the authority of the Indiana Department of Education (“IDOE”), and serve some combination of grades Pre-K to 12. Ind. Code § 20-18-2-14.3.

Q: What is a magnet school?*

A: Magnet schools are traditional public schools with specialized courses or curricula that allow kids to focus on specialized themes, such as performing arts. The “magnet” refers to how the specialty offered by the school draws students from across traditional public school district boundaries. Magnet schools are voluntary.

Q: What is a charter school?*

A: Charter schools are public schools. The term “charter” refers to the agreement between the school and the organization that authorizes both the establishment and operation of the school. Under Ind. Code § 20-24, charter schools are established to serve the different learning styles and needs of public school students, to offer appropriate and innovative choices, to afford varied opportunities for professional educators, to allow freedom and flexibility in exchange for exceptional levels of accountability, and to provide parents, students, community members, and local entities with an expanded opportunity for involvement in the public school system. An individual charter school is considered to be its own local educational agency (LEA), meaning it is treated as an autonomous entity independent from a school district. For some purposes, including funding and other topics specified in law, charter schools can be treated as their own school corporations.



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Although public charter schools are exempt from some state and district regulations, they are held to high levels of accountability. In addition to meeting state and federal accountability requirements (Public Law 221, Indiana’s Accountability Model, and The Every Student Succeeds Act 20 U.S.C. § 6301), charter schools must also meet the requirements set out in their charter. An authorizer may revoke a school’s charter at any time if the school is not fulfilling the terms of its charter. Charter schools are nonreligious. Charter schools have more flexibility to set curriculum, school hours, and rules than traditional public schools. Charter schools can be either brick-and-mortar or virtual. Ind. Code § 20-24-1-4; Ind. Code § 20-24-1-10.

Q: What is a virtual school?*

A: Virtual schools can be private or public and offer an education program in which more than fifty percent of student instruction is provided in an interactive learning environment created through technology in which the student is separated from a teacher by time or space, or both. Ind. Code § 20-19-9-1.

Public virtual schools are operated by the school district and must follow the same rules and standards as all other Indiana public schools. Charter virtual schools are public but operate with more flexibility than public virtual schools. Ind. Code § 20-24-7-13.

Virtual schools provide instruction in different ways. Instruction defined as synchronous learning is teacher-led instruction where the student and teacher/class interact in real-time via the computer. Asynchronous learning includes instruction in which the student and teacher are separated by time and occurs via email or online discussion forums. Blended learning provides a hybrid model where students receive instruction both in-person at a school facility and online with students retaining some degree of control over time, location, and pace. For a listing of virtual schools in Indiana, see “Additional Parent Resources.”

Q: What is a learning pod?*

A: During the pandemic, many families chose to gather their children together with neighbors or friends for on-line learning as a group, or pod. Learning pods take a variety of legal forms and formats, including learning support pods and self-directed pods.



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Learning support pods (public school option) differ from a self-directed pod (private option) in that parents keep their child enrolled in the public school during a period of remote learning. Under the supervision of a parent, several parents, or a guardian, students work together on lessons, classes, and activities provided by the children's existing schools. Indiana law does not define learning support pods. They evolved as a solution to remote learning during the COVID-19 pandemic. If your child is enrolled in a public school that moves to remote learning and is supervised by an adult in your learning pod, you do not need to notify your public school. Learning support pods could also serve as an option for parents with children enrolled in a public virtual school if permitted by the student's school. See "Additional Parent Resources" for a listing of online public virtual schools that may permit learning pods. Self-directed learning pods involve unenrolling your child from a public school as discussed in the private school section.

Q: What determines a student's public school district?*

A: A student's public school district is where the student has legal settlement. Generally, legal settlement is the location where the student's parents reside. Ind. Code § 20-26-11-1. If the student's mother and father divorce or separate, the legal settlement of the student is the residence of the parent with custody of the child. Even though custody is awarded to one parent, the parents can agree outside of court that legal settlement is with the other parent (the student needs to be living with this other parent). If a court order has not been made establishing custody of the child, the student's legal settlement is with the parent with whom the student lives. Ind. Code § 20-26-11-2.5.

Q: Does my child have to attend school in the public school district where we reside?*

A: No. Indiana has open enrollment policies that allow for public school choice to exist beyond moving to another school district. Ind. Code § 20-26-11. Any school district in Indiana may voluntarily enact a policy for accepting or rejecting applications for a transfer to another school that lies within or outside the boundaries of the district. If school districts do not voluntarily enact a policy, Indiana law allows parents to request a transfer from a district where the student is a resident to another school if the student may be better accommodated in the public school of the transferee corporation. Ind. Code § 20-26-11-5. The decision whether to grant the transfer depends on the crowd conditions of the transferee school and curriculum offerings at the high school level that are important to the vocational or academic aspirations of the student. Id. The school corporation has 30 days to respond to the request. If after 30 days the school corporation fails to act, the transfer is considered approved. If the transfer is denied, an appeal may be taken to the SBOE within 10 days of the denial and the SBOE shall hold a hearing. Ind. Code § 20-26-11-15.



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Q: How do I withdraw my child from school?*

A: A parent may withdraw their student from school at any time for the purpose of transferring that student to another public school, private school, or homeschool. Local school districts may have their own form and procedure for doing this. It is best practice to provide a written withdrawal letter to the school. It is important to note that attending school is compulsory in Indiana. Ind. Code § 20-33-2-4. The law requires students to attend from the fall semester of the school year the student turns 7 years old until the student graduates or becomes 18 years of age, with some exceptions made after the age of 16 years. Students shall attend a public school or another school taught in the English language (private school or homeschool). Ind. Code § 20-33-2-6.

Q: Do public schools charge tuition?*

A: No. Public schools do not charge tuition. Public schools are primarily funded through a combination of state funding, local property taxes, and federal grants. During the 2020-2021 school year, these sources of funding provided \$9,543,579,468.87 billion to Indiana schools, or \$9,193.68 per student as reported by the Indiana Department of Education. See “Additional Parent Resources” for the full report.

Q: What is the average total amount of state spending (not including local or federal funds) per student in a traditional public school?*

A: The total per-pupil payments from the state to public schools, also referred to as “state tuition support,” averaged \$7,026 in the 2021-2022 school year and will average \$7,395 for the 2022-2023 school year. See “Additional Parent Resources” for more detailed information on the Indiana State Budget.

Q: Does the state provide different levels of funding to public schools?*

A: Yes. State tuition support includes a foundation grant and a complexity grant. While the per-pupil amount of the foundation grant is the same for all students in all schools, the per-pupil amount of the complexity grant varies depending on each school’s demographics. The per-pupil amount of the foundation grant to public schools was \$5,995 for the 2021-2022 school year. That amount increases to \$6,235 for the 2022-2023 school year. Ind. Code § 20-43-3-8. While the amount of the complexity grant varies depending on school demographics, such as the number of enrolled foster children and families receiving income-based public assistance, the average per-pupil complexity grant equaled \$2,246 per pupil for the 2021-2022 school year. Ind. Code § 20-43-6-3. Of note, the base amount of state tuition support to virtual schools is 15% less than brick-and-mortar schools.



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In addition to the foundation and complexity grants, state tuition support is awarded to schools based on the number of students who earn Honors diplomas (\$30,027,400 in 2021), Ind. Code § IC 20-43-10, participate in career and technical education programs (\$131,432,850 in 2021), Ind. Code § 20-43-8-15, and have special education needs (\$567,426,692 in 2021) Ind. Code § IC 20-43-7-1. Special education dollars are distributed to schools for each eligible student based on the level of disability: Severe-\$10,575, Moderate-\$2,657, Mild-\$500. Ind. Code § 20-43-7-6.

Q: Is there a way to compare public school budgets to evaluate how much money is spent on student learning and classroom instruction versus non-academic expenses, such as debt financing and overhead costs?*

A: Yes. The Office of Management and Budget (OMB) is required under Indiana law to publish a report titled “Dollars to the Classroom,” which includes the ratio of student instructional expenditures (academic achievement and instructional supports) to non-instructional expenditures (overhead, operations, and debt financing). Ind. Code § 20-42.5-3. From 2006 to the 2019-2020 school year (most recent year reported), the statewide average of dollars going directly to student academic achievement declined by roughly 5%. While this may not seem like a large percentage, it represented \$650,000,000 fewer dollars spent on academic achievement in the 2019-2020 school year. The amount spent on student services, such as school administration, school counselors, mental health services, occupational therapists, and other non-academic related services increased by 2.5%, representing \$325,000,000. The amount spent on overhead and operations increased by 1.4%, representing \$182,00,000, and non-operational expenses increased by 1%, representing \$130,000,000. Parents wishing to compare the budgets of individual schools and districts in the school selection process can view more detailed information via the “Dollars to the Classroom” report available on the OMB website. See “Additional Parent Resources” for this report.



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Private Schools

Q: What qualifies as a private school?*

A: A school not maintained by a school corporation. Ind. Code § 20-18-2-12. Indiana law refers to private schools as non-public schools.

Q: What are the various private school options in Indiana?*

A: Private schools are either accredited or non-accredited and encompass traditional brick and mortar schools, virtual schools, learning pods, and homeschools.

Q: What is a traditional private school?*

A: Traditional private schools are brick-and-mortar and take a variety of forms. Traditional private schools can be religious or secular schools. Depending on the mission and goals of the school, they can be accredited or non-accredited and operate with various levels of state government regulations.

Q: What is a private virtual school?*

A: Virtual schools can be private or public schools. Private virtual schools operate similarly to a traditional private school, but the program is offered online. Some virtual private schools are accredited and participate in the Indiana Choice Scholarship Program, which allows students to use state vouchers to pay tuition costs.

Virtual schools provide instruction in different ways. Instruction defined as synchronous learning is teacher-led instruction where the student and teacher/class interact in real-time via the computer. Asynchronous learning includes instruction in which the student and teacher are separated by time and occurs via email or online discussion forums. Blended learning provides a hybrid model where students receive instruction both in-person at a school facility and online with students retaining some degree of control over time, location, and pace. For a listing of virtual schools in Indiana, see “Additional Parent Resources.”



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Q: Are learning pods considered private schools?*

A: During the pandemic, many families adjusted to school closures by getting their children together with their neighbors or friends to do on-line learning as a group, or pod. “Learning pods” are not explicitly defined under Indiana law, but pods that are not under the control of a public school (as discussed in the public school section) are considered private schools that are either accredited or non-accredited by the State of Indiana. In a learning pod, or a microschool as they are often referred to, a group of parents may serve as teachers or pool resources to hire teachers, tutors, or instructors. The rules that a private microschool/pod must follow depend on its accreditation status, which is discussed below. A distinct difference between homeschool parents getting their children together for activities and a private microschool/pod is that the homeschool parent makes all educational decisions for the student, whereas in a private learning pod, the authority is shared.

Q: Does the State of Indiana require accreditation of private schools?*

A: No. The State of Indiana does not require private schools to be accredited unless the school elects to participate in one of Indiana’s school choice programs. Ind. Code § 20-31-4.1. However, private schools wishing to participate in the Indiana High School Athletic Association (IHSAA) also must be accredited.

Q: What rules must a non-accredited private school follow in Indiana?*

A: A non-accredited private school is exempt from state regulations regarding curriculum and the content of education programs. Ind. Code § 20-33-2-12. However, a non-accredited private school is required under Indiana law to adhere to the regulations below:

- The school must provide an “equivalent education” to that offered by the state. Ind. Code § 20-33-2-28. Although, an “equivalent education” is not defined under Indiana law.
- Instruction must be offered for the number of days that the local school corporation is in session, which is generally 180 days each year. Ind. Code § 20-33-2-6; Ind. Code § 20-30-2-3.
- Instruction must be in the English language. Ind. Code § 20-33-2-4.
- Attendance records must be kept. Ind. Code § 20-33-2-8.



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Q: How does a private school become accredited in Indiana?*

A: The State Board of Education (SBOE) accredits schools in two ways. A private school may file an application with the SBOE for accreditation under Indiana’s performance-based accreditation system. Ind. Code § 20-21-4.1. A private school may also be accredited through a third-party accreditation organization recognized by the SBOE, including Accrediting Association of Seventh-day Adventist Schools, Colleges, and Universities (AASDAS); American Association of Christian Schools (AACCS); Association of Christian Schools International (ACSI); Christian Schools International (CSI); Independent Schools Association of the Central States (ISACS); International Christian Accrediting Association (ICAA); National Lutheran Schools Accreditation (NLSA); and North Central Association (NCA)/AdvancED. See “Additional Parent Resources” for IDOE guidance.

Q: What rules must private schools follow if accredited through Indiana’s performance-based accreditation system?*

A: In 2020, the state legislature passed Ind. Code § 20-31-4.1 requiring the SBOE to develop a performance-based accreditation system to which all public schools must adhere and private schools may voluntarily apply. As determined by the SBOE, private schools that apply for accreditation shall be accredited under this system if the school meets all applicable legal standards.

Q: What are the legal standards established by the SBOE that accredited private schools must meet under Indiana’s performance-based accreditation system?*

A: Accredited private schools and public schools must adhere to all legal standards established by the SBOE under Title 511 Indiana Administrative Code Article 6. Accredited private schools must provide 180 days of instruction each year, follow health and safety requirements, offer certain curricula required under Indiana law, follow teacher-student ratios, conduct criminal background checks on employees, administer the Indiana state test, and report to the state data for A–F ratings, including state assessment scores and graduation rates. Accredited private schools may not discriminate on the basis of race, color, or national origin and must grant the state full access to its premises for observing classroom instruction and reviewing any instructional materials and curriculum. See “Additional Parent Resources” for the full list of regulations.



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Q: What rules must private schools follow if accredited by a third-party accreditation organization?*

A: Each accreditation organization recognized by the SBOE establishes their own guidelines for accreditation. In general, accreditation organizations follow a thorough evaluation process that considers how the school is governed, financed, and operated, as well as standards for school safety, academic performance, curricula, teacher training, teacher licensing, and other criteria.

Q: If my child attends a private school, does my child qualify for special education services offered by a public school?*

A: Yes. For students with disabilities who have been placed in private schools by their parents, public schools have a duty to locate, identify, and evaluate all students with disabilities; consult with non-public school representatives and representatives of the parents of non-public school students with disabilities; and make available special education and related services to all students with disabilities. Ind. Code § 20-19-2-8; Ind. Code § 20-19-2-16; 511 Ind. Admin. Code 7-34-1. It is the public school's responsibility to evaluate the student and conference with the student's parents to determine a plan for the student. A parent may initiate the special education process through the public school district of the student's legal settlement or the public school district in which the private school is situated, if different. See generally 511 Ind. Admin. Code 7-34.

Q: Does a student in a private school receive the same level of special education services as a student in public school?*

A: No. A private school student with a disability receives special education and related services in accordance with a Service Plan (SP), not an Individualized Education Program (IEP). The full array of services required under an IEP are not required to be made available as part of a SP for a student in a private school. For example, the length and frequency of services to be provided may be less than the student would receive through an IEP; alternatively, the SP may provide consultative services in the private school where, were the student enrolled in a public-school program, the services may be more direct. If the public school decides to provide the services at a location other than the non-public school, it must provide transportation for the student to and from the location. See generally 511 Ind. Admin. Code 7-34. See also "Additional Parent Resources" for the IDOE guidance on special education services for private school students.



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Homeschool

Q: Do parents have a right to homeschool their children?*

A: Yes. Near the turn of the 20th century, the Indiana Court of Appeals recognized home study as an educational option. *State v. Peterman*, 70 N.E. 550, 552 (Ind. App. 1904). The United States Supreme Court recognizes that parents have a fundamental right to direct the upbringing and education of children under their control. *Pierce v. Society of Sisters*, 268 U.S. 510 (1925); *Yoder v. Wisconsin*, 406 U.S. 205 (1972). Parents have a right to educate their children in facilities other than those provided in the public schools.

Q: How does Indiana define homeschooling?*

A: Indiana has a functional definition of homeschooling as non-accredited and non-public schools with less than one employee. Ind. Code § 20-32-4-4. Ind. Code § 31-33-8-7.

Q: What laws govern and regulate homeschoolers in Indiana?*

A: The IGA has enacted several homeschool laws:

- Children ages 7-17 must be educated. Ind. Code § 20-33-2-5.
- The Indiana school year begins after June 30 of the school year and concludes before July 1 of the same school year. Ind. Code § 20-18-2-17.
- Home educated students must be instructed for the same number of days as their local school system is in session. This is typically 180 days. Ind. Code § 20-33-2-6; Ind. Code § 20-30-2-3.
- Parents must begin keeping attendance records the date the child turns 7. Ind. Code § 20-33-2-8.
- The local superintendent and the State Secretary of Education may ask to see a parent's attendance sheet. Ind. Code § 20-33-2-20.
- Parents must provide an equivalent education. Ind. Code § 20-33-2-28. Although, "equivalent education" is not defined.
- Home educators are not bound to curriculum and content requirements in Ind. Code Art. 20; Ind. Code Art. 21; or Ind. Code § 20-33-2-12.



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- The education must be taught in English. Ind. Code § 20-33-2-4.
- The parents of a high school student withdrawing to home educate must fill out a form developed by IDOE and approved by the SBOE that explains the legal requirements of attending a non-accredited, non-public school located in Indiana. Ind. Code § 20-33-2-28.6.

Q: Do I have to register my homeschool children with the state?*

A: No. Homeschool registration does not exist in the State of Indiana.

Q: Do homeschools have to keep attendance?*

A: Indiana law requires a non-public school to keep “an accurate daily record of the attendance of each student who is subject to compulsory school attendance,” which is required to be kept solely “to verify the enrollment and attendance of a student upon request of the (1) secretary of education; or (2) superintendent of the school corporation in which the non-public school is located.” Ind. Code § 20-33-2-20.

Public school districts or the IDOE should not request that all homeschool families report their school attendance. This general and continuous request does not meet the standard in either of these provisions of the law.

Q: What options do parents have to choose curriculum for their homeschool children?*

A: Indiana law gives home educators the flexibility to choose the curriculum and textbooks they believe will most benefit their children. Parents are not required to follow the same program or curriculum requirements of Indiana public schools. The state does not require that you register your child with the state or approve the homeschool programs or curriculum. However, parents should maintain good records of the courses taught through high school so that transcripts may be provided to colleges and prospective employers. See “Additional Parent Resources” for educational choice resources.

Q: Is there funding from the state to cover homeschool expenses?*

A: No. Home education is privately funded per the definition of non-public and non-accredited schools. Many options exist for free or low-cost private curriculum. Indiana does offer a tax deduction of up to \$1,000.00 for educational expenses related to private education.



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Q: Are virtual school options offered through public school systems considered homeschooling?*

A: No. Students enrolled in a virtual public-school program are public school students. A homeschool is, by definition, a non-public and non-accredited school.

Q: Are homeschool students eligible for special education services provided by public schools?*

A: Yes. Homeschools are considered non-accredited private schools in Indiana and students are eligible for special education services in the same manner as other private school students.

Q: Does a homeschool student receive the same level of special education services as a student in public school?*

A: No. A homeschool student with a disability receives special education and related services from the public school in accordance with a Service Plan (SP), not an Individualized Education Plan (IEP). Students generally receive a different level of service under a SP than students receive under an IEP. The full array of services required under an IEP are not required to be made available as part of a SP for a homeschool student. For example, the length and frequency of services to be provided may be less than the student would receive through an IEP at a public school; alternatively, the SP may provide consultative services for a homeschool student where, were the student enrolled in a public-school program, the services may be more direct. If the public school decides to provide the services at a location other than the location of the homeschool, it must provide transportation for the student to and from the location. See generally 511 Ind. Admin. Code 7-34.



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Individual State Tax Credits and Grants for Parents

Q: What state tax deductions are available to offset private school costs?*

A: Parents may claim a deduction up to \$1,000.00 per child on their state tax returns for unreimbursed educational expenditures for a dependent child in a private school, including homeschools.

Q: What educational costs can be deducted?*

A: Deductible expenses include parents' expenditures on unreimbursed costs, such as private school tuition, homeschooling costs, textbooks, fees, software, tutoring, and supplies.

Q: What is an Indiana Education Enrichment Grant?*

A: The Indiana General Assembly passed a law in 2022 authorizing the IDOE to establish a grant program to which parents of K-12 students in public or private schools may apply for a \$500 scholarship (or \$1000 if their school matches the grant) to pay for the cost of tutoring or other services (approved by IDOE) designed to improve student performance in math or English. The grants will be offered from June 30, 2022, through October 1, 2024. The number of grants provided will depend on the availability of funds. Eligibility for the grants and other requirements are to be established by the IDOE and were not available at the time of publication.



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Indiana Choice Scholarship Program

Q: What is the Indiana Choice Scholarship Program?*

A: The Indiana Choice Scholarship Program (“Choice Scholarship Program”) established under Indiana Code § 20-51-4, commonly referred to as the voucher program, provides scholarships to eligible Indiana students to offset tuition costs at participating private schools. During the 2020-2021 school year, there were 35,698 students participating in the Choice Scholarship Program. With recent legislative changes to the income levels required for eligibility, approximately 80% of Indiana students are now eligible for the program.

Q: How do parents apply to the Choice Scholarship Program?*

A: For parents interested in applying for the Choice Scholarship Program, the Indiana Department of Education has an online resource that guides parents through each step of the application process. Parents may also work with the private school that the student wishes to attend to start the application process. A link to the application is available in “Additional Parent Resources.”

Q: How many private schools in Indiana participate in the Choice Scholarship Program?*

A: Indiana has 330 private schools participating in the Choice Scholarship Program. See “Additional Parent Resources” for the listing of schools.

Q: Who qualifies for scholarships under the Choice Scholarship Program?*

A: Per Ind. Code § 20-51-4-2, all eligible students will qualify for the Choice Scholarship Program for each school year that the eligible Choice Scholarship Program student enrolls in an eligible school. To be eligible, a student must be a resident of Indiana, be accepted for enrollment at a participating school, and be between the ages of 5 and 22 no later than August 1 of the school year. The student’s family must also meet annual income requirements of no more than 300% of the amount for federal free or reduced lunch (\$147,075 for a family of four in 2021-22 and \$154,012.50 for a family of four in 2022-2023). In addition to these requirements, the student must qualify under one of the below “pathways,” or tracks:¹⁹

¹⁹ See: EdChoice, Choice Scholarship Program (accessed April 11, 2022), <https://www.edchoice.org/school-choice/programs/indiana-choice-scholarship-program/>.



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- **Public School Track:** The student has completed two years of enrollment in a public school immediately preceding the school year for which the student is applying for a Choice Scholarship.
- **“F” Public School Track:** The student would be required to attend a specific public school based on his/her legal settlement that that has been assigned an “F” grade. (However, he or she is not required to attend that public school before becoming eligible nor return to that school should the grade be raised).
- **Special Education Track:** The student has a disability that requires special education services and has an Individualized Education Plan (IEP) or Service Plan (SP).
- **Pre-K Track:** The student received an Early Education Grant (“On My Way Pre-K”) and attends kindergarten at the same school that they attended for preschool.
- **Foster Care Track:** The student is in foster care.
- **Sibling Track:** The sibling of the newly applying student received either a Choice Scholarship Program scholarship or a Scholarship Granting Organization (SGO) scholarship in a previous school year, including a school year that does not immediately precede the school year for which the student is applying for a Choice Scholarship Program scholarship.
- **Previous Scholarship Granting Organization (SGO) Track:** The student received an SGO scholarship, as further explained below, in a previous school year, including a school year that does not immediately precede the school year for which the student is applying for a Choice Scholarship Program scholarship.
- **Continuing Choice Scholarship Program Scholarship Student Track:** The student received a Choice Scholarship in the school year immediately preceding the school year for which the student is applying for a Choice Scholarship.

Q: How is the Choice Scholarship Program funded?*

A: The program is funded by state taxpayer dollars and appropriated by the IGA. The Choice Scholarship Program receives no local funds and only a negligible amount from federal funds dedicated to public education.



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Q: What is the value of a Choice Scholarship Program scholarship?*

A: Choice Scholarship Program scholarships equal 90% of state tuition support to the public school the child would otherwise attend, or the amount of tuition posted by the private Choice Scholarship Program school, whichever is lesser. Ind. Code § 20-51-4-4. State tuition support is equal to the foundation and complexity grants and any additional payments for the Honors and Career and Vocational programs received by the public school the student would otherwise attend. The 2022-2023 average voucher amounts vary between \$5,500.00 to \$7,300.00, depending on the school district. If a student is eligible for special education funds, the voucher would include an additional amount depending on the severity of the student's disability: Severe-\$10,575, Moderate-\$2,657, Mild-\$500. Ind. Code § 20-43-7-6. See "Additional Parent Resources" for voucher amounts by school district.

Q: Does state funding for the Choice Scholarship Program drain public school resources?*

A: No. It saves the state money. The state pays the private school 90% of the state tuition support and the state saves the other 10% of funding. The Choice Scholarship Program saved the state \$67 million in 2021 state education costs. Moreover, Choice Scholarship Program students do not receive any share of local funding and an insignificant amount of federal funding directed to public schools. On average, these students are educated at less than 50% of the cost of a public-school student.²⁰ See "Additional Parent Resources" for more details on the finances of the Choice Scholarship Program.

Q: Are Indiana Choice Scholarship Program schools required to take statewide assessments?*

A: Yes. Ind. Code § 20-51-1-4.7 requires schools that accept Choice Scholarships to administer statewide testing to all students enrolled. This is also a requirement for any state accredited private schools.

²⁰ See: EdChoice, Choice Scholarship Program (accessed April 11, 2022), <https://www.edchoice.org/school-choice/programs/indiana-choice-scholarship-program/>.



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Q: Do Indiana private schools that participate in the Choice Scholarship Program have more regulations than private schools that do not participate?*

A: Yes. Non-accredited private schools have the fewest regulations. Accredited private schools must follow the legal standards established through the state performance-based accreditation system or the standards established by a third-party accreditation organization (*See Private school accreditation section*). In addition to the regulations for state accreditation, participating Choice Scholarship Program schools must follow regulations established under Ind. Code 20-51-4. Choice Scholarship Program schools are also required to develop a plan for annual performance evaluations for each certificated employee. Ind. Code § 20-28-11.5-4. *See “Additional Parent Resources” for IDOE regulatory guidance for non-public schools.*

Q: Is a Choice Scholarship Program school required to provide special education services?*

A: No. The level of special education services provided by the Choice Scholarship Program school is based on their ability to provide them. Parents can elect to have the special education services provided by the public school if not available through the Choice Scholarship Program school.

Q: Are Choice Scholarship Program students eligible to receive special education services provided by public school districts?*

A: Yes. If a Choice Scholarship Program school provides special education services, the parent must decide whether he or she wants the Choice Scholarship Program school or the public school district to provide the student’s special education services. If the parent selects to have the services provided by the public school, the student will receive the same special education services provided by a public school district to all private school special education students. 511 IAC 7-49.

If the parent selects to have the special education services provided by the private Choice Scholarship Program school, the private school staff will meet with the parents and develop a Choice Special Education Plan (CSEP), similar to a Service Plan (SP) developed for non-Choice Scholarship Program students. The CSEP describes the special education and related services that the school is required to provide to the Choice Scholarship Program student. Parents can change their mind if they find their child’s special education services would be better provided through the public school. Of note, the Choice Scholarship Program school will receive any special education funding made available for the student. 511 IAC 7-49.



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Scholarship Granting Organizations

Q: What is a Scholarship Granting Organization and how is it funded?*

A: Certified Scholarship Granting Organizations (SGO) provide scholarships (vouchers) to income eligible students to offset tuition costs at partnering schools. SGOs are part of the School Scholarship Tax Credit Program. Ind. Code § 20-51-1-7. Qualified SGOs receive funding from private, charitable donations for private school scholarships. Those who donated to an SGO approved by the IDOE are eligible to take advantage of a credit worth 50 percent of the donation against their individual or corporation state tax liability.

Q: What are the differences between SGO scholarships and Choice Scholarship Program scholarships?*

A: The Choice Scholarship Program provides *state-funded* scholarships to eligible Indiana students to offset tuition costs at participating schools. SGO scholarships are different in that they are funded by *private*, charitable donations and awarded by a certified SGO, not the state of Indiana. SGO scholarships have fewer eligibility requirements than the Choice Scholarship Program scholarships. For example, the SGO scholarships do not require students to attend public schools for two semesters. While the value of a Choice Scholarship Program scholarship is tied to the amount of state tuition support, the amount of an SGO scholarship is determined by the SGO.

Q: How does a parent apply for an SGO scholarship?*

A: A parent should contact the partnering school they wish their children to attend to start the application process. The Indiana Department of Education provides a list of partnering schools. See “Additional Parent Resources.”

Q: What regulations do schools that accept SGO scholarships have to follow?*

A: Private schools that accept SGO scholarships must be accredited and administer the statewide assessments or another nationally recognized assessment to the schools’ students. Ind. Code § 20-51-1-6.



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Q: What are the student eligibility requirements to receive an SGO scholarship?*

A: For SGO scholarship eligibility, the state requires that the student 1) has legal settlement in Indiana; 2) is between 5 and 22 years of age; 3) either has been or is currently enrolled in a participating school; and 4) is a member of a household with an annual income equal to or less than 300% of the amount for the individual to qualify for federal free or reduced lunch (\$147,075 for a family of four in 2021-22 and \$154,012.50 for a family of four in 2022-2023). Ind. Code § 20-51-1-5. SGOs may establish additional requirements for the scholarships they provide. See “Additional Parent Resources” for a list of SGOs.

Q: What is the amount of an SGO scholarship?*

A: There is no amount established by state statute that an SGO must award to an eligible student. However, the maximum amount cannot exceed the cost of tuition at the school to which the scholarship applies. The average amount awarded is \$2,350.

Q: How many SGO scholarships are awarded each year?*

A: It depends on the availability of funds. But there were 9,557 SGO scholarships awarded in the 2020-2021 school year.

Q: Can a student be awarded an SGO scholarship and an Indiana Choice Scholarship?*

A: A student who meets the requirements for a Choice Scholarship Program scholarship may also qualify for an SGO Scholarship in the same year provided that the combination of the two scholarships does not exceed tuition and fees.



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Education Scholarship Accounts

Q: What is the Indiana Education Scholarship Account Program?*

A: Starting in the 2022-2023 school year, the Indiana Education Scholarship Account Program (INESA) will offer Education Scholarship Accounts (ESA) to qualified parents of special education students to cover the costs of education activities and materials approved under the program. The list of approved educational expenses covers a variety of options, such as private school tuition, public school courses, approved educational services, testing fees, special needs services and therapies, individual classes, school-sponsored extracurricular activities, and occupational therapy. Students may also use up to \$750 of their ESA funds annually for transportation services. See generally Ind. Code § 20-51.4.

Q: Who is eligible for an ESA account?*

A: Students are eligible for an ESA if they 1) are not enrolled in a public school; 2) have either an Individualized Education Plan (IEP), Service Plan (SP), or Choice Special Education Plan (CSEP) for special needs; and 3) are from a family with a household income up to 300 percent of the eligibility level for the federal free and reduced-price lunch program (\$147,075 for a family of four in 2021-22 and \$154,012.50 for a family of four in 2022-2023). Ind. Code § 20-51.4-2-4.

Q: How is an ESA different than a Choice Scholarship Program scholarship?*

A: Both ESAs and Choice Scholarship Program scholarships are paid for with funds appropriated by the IGA. However, scholarships through the Choice Scholarship Program must be used to pay for tuition at a participating private school. ESAs may be used, not only for private school tuition, but also for a variety of other qualified education expenses. Eligibility for an ESA does not require students to qualify under one of the eight tracks mandated under the Choice Scholarship Program. Importantly, only students with a diagnosed disability requiring special education services are eligible for ESAs. Ind. Code § 20-51.4-2-4.

Q: What types of qualified education services can ESAs support?*

A: ESAs can be used to pay for tuition and fees at an approved private school or qualified courses through a public school. Parents may also use ESA funds to tailor a child's education through the use of tutors, therapies, services, and other pre-approved educational expenses, as long as the parent of the eligible student uses part of the money in the account in the following areas of study: reading, grammar, mathematics, social studies science, or other area as determined in the student's IEP, SP, or CSEP. Ind. Code § 20-51.4-2-9.



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Q: How does a parent apply for an ESA account?*

A: Applications to participate in the ESA program are forthcoming for the 2022-2023 school year through the Office of the Indiana State Treasurer. See “Additional Parent Resources” for a link to the application and other resources.

Q: Can a student be awarded both an ESA and a Choice Scholarship Program scholarship?*

A: No. A student may not be awarded both during the same school year. Ind. Code § 20-51.4-4-1.

Q: How much money does an ESA provide per student?*

A: ESAs are worth 90% of state tuition support provided to the public school the student would otherwise attend. This amount will vary from year-to-year and from school-to-school based on the state tuition support amount. Based on the 2022-2023 voucher amount, the maximum amount of an ESA should range between \$5,500 to \$7,300 or the cost of qualified expenses, whichever is lesser. Parents may roll over up to \$1,000 of unused funds in a given year to be used in subsequent years. Ind. Code § 20-51.4-4-4. If special education services are provided outside of the local public school, the ESA will include 100% of special education funding in addition to the ESA.

Q: What parent responsibilities are required under an ESA?*

A: Parents must sign an agreement with the state, use funds for qualified expenses, ensure studies in the subjects of reading, grammar, mathematics, social studies, and science, and have the student take the state test of the student’s grade level or the assessment determined by his or her IEP. Ind. Code § 20-51.4-4-1.

Q: How much money does the state make available for ESAs?*

A: The Indiana General Assembly capped the total annual amount available for ESAs at \$10 million dollars. This amount will pay for no more than 2,000 students to receive ESA funds each year.



Additional Parent Resources

School Curriculum and Parent Rights

- Indiana academic standards information:
<https://www.in.gov/doe/students/indiana-academic-standards/>
- IDOE guide for Social-Emotional Learning:
<https://inacac.org/resources/Documents/Indiana's%20Social-Emotional%20Learning%20Competencies%20Serving%20the%20Whole%20Child.pdf>
- Indiana employability skills standards information:
<https://www.in.gov/doe/students/indiana-academic-standards/employability-skills/>
- IDOE newsletters:
<https://www.in.gov/doe/about/news/newsletters/>
- Statement from Secretary of Education Katie Jenner:
https://media.doe.in.gov/release/faq-on-indiana-standards.pdf?utm_content=&utm_medium=email&utm_name=&utm_source=govdelivery&utm_term=
- Resource on culturally responsive teaching:
<https://democracyeducationjournal.org/cgi/viewcontent.cgi?referer=https://scholar.google.com/&httpsredir=1&article=1023&context=home>
- Title I schools and parent rights information:
<https://www.in.gov/doe/grants/title-i/>
- Title I list of schools (2019):
<https://www2.ed.gov/about/overview/budget/titlei/fy19/indiana.pdf>
- Indiana Code Title 20 Education:
<http://iga.in.gov/legislative/laws/2021/ic/titles/020>

Parent Procedural Rights and Remedies

- Indiana Public Access Counselor contact:
<https://www.in.gov/pac/contact-us/>
- Handbook on Indiana's Access to Public Records:
<https://www.in.gov/pac/files/PAC-Handbook-2017.pdf>



Additional Parent Resources

- Indiana’s Administrative Rules and Procedures Act, Ind. Code § 5-14-3:
<http://iga.in.gov/legislative/laws/2021/ic/titles/005#5-14-3>
- Indiana’s Open Door Law, Ind. Code § 5-14-1.5:
<http://iga.in.gov/legislative/laws/2021/ic/titles/005#5-14-1.5>
- Indiana Election Division’s candidate guide:
<https://www.in.gov/sos/elections/files/2020-Candidate-Guide.MOVEDPRIMARY5.pdf>
- Indiana State Board of Education meeting and materials:
<https://www.in.gov/sboe/board-meetings-and-materials/board-meetings-and-materials/>
- Indiana State Board of Education meeting instructions:
https://www.in.gov/sboe/files/SBOE_Public_Comment_Procedures_08_05_15.pdf
- Office of Civil Rights complaints:
<https://www2.ed.gov/about/offices/list/ocr/complaints-how.html>
- United States Department of Education FERPA complaint form:
<https://studentprivacy.ed.gov/file-a-complaint>
- Individuals with Disabilities Act (“IDEA”) complaint process:
<https://sites.ed.gov/idea/regs/b/b/300.153>, *see also*:
<https://www.in.gov/doe/students/special-education/special-education-complaint-511-iac-7-45-1/>
- Indiana civil rights complaints:
<https://secure.in.gov/apps/icrc/discrimination>

Medical Rights

- Information about how student health information may be shared:
<https://www.in.gov/doe/files/hipaa-or-ferpa-final-2019-2nded.pdf>
- General information regarding student privacy:
<https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>



Additional Parent Resources

- Information about medical record privacy in elementary and secondary schools:
<https://www.hhs.gov/hipaa/for-professionals/faq/513/does-hipaa-apply-to-an-elementary-school/index.html>
- Indiana Code concerning student health and safety, Ind. Code § 20-34:
<http://iga.in.gov/legislative/laws/2021/ic/titles/020#20-34>
- IDOE student health services rule, 511 Ind. Admin. Code 4-1.5-6:
http://iac.iga.in.gov/iac/iac_title?iact=511
- FDA's Emergency Use Authorization for Vaccines Explained:
<https://www.fda.gov/vaccines-blood-biologics/vaccines/emergency-use-authorization-vaccines-explained>
- Guidance from the US Department of Ed regarding the comparisons between FERPA and IDEA:
https://studentprivacy.ed.gov/sites/default/files/resource_document/file/FERPA%20and%20Coronavirus%20Frequently%20Asked%20Questions.pdf
- To file a disability due process hearing request electronically with IDOE, parents can visit I-CHAMP (<https://ichamp.doe.in.gov/>).
- Information regarding IDOE's Special Education Due Process Hearing procedures:
<https://www.in.gov/doe/students/special-education/special-education-due-process-hearing-511-iac-7-45-3-through-7-45-7/>.
- Information regarding IEP rules and procedures:
http://iac.iga.in.gov/iac/iac_title?iact=511

Public Schools

- Transfer Request Application Instructions:
<https://www.in.gov/doe/home/other-legal-forms/>
- Enroll Indy website:
<https://enrollindy.org/>
- Office of Management and Budget "Dollars to the Classroom" website:
https://datavizpublic.in.gov/views/DollarstotheClassroom2019-2020/DollarstotheClassroom?:showAppBanner=false&:display_count=n&:showVizHome=n&:origin=viz_share_link&:toolbar=n&:isGuestRedirectFromVizportal=y&:embed=y
- Indiana virtual school listing:
<https://www.digitalllearningcollab.com/state-profiles/indiana>



Additional Parent Resources

- Indiana State Budget:

<http://iga.in.gov/legislative/2021/bills/house/1001#document-dbc2cc8e>

- Indiana Department of Education financial report:

<https://inview.doe.in.gov/state/1088000000/finance>

Private Schools

- Indiana State Board of Education legal standards for state accreditation:

<https://casetext.com/regulation/indiana-administrative-code/title-511-indiana-state-board-of-education/article-61-school-accreditation>

- Indiana Department of Education resources for third-party accreditation:

<https://www.in.gov/doe/it/school-accreditation/>

- United States Department of Education regulatory guidance for Indiana non-public schools:

<https://www2.ed.gov/about/inits/ed/non-public-education/regulation-map/indiana.html#:~:text=A%20school%20must%20comply%20with,F%20Indiana%20Statewide%20Testing%20For>

- Indiana Department of Education guidance for special education (see pages 40-47 for private school info):

<https://www.in.gov/doe/files/navigating-course-art-7-revisions-2019.pdf>

Indiana Choice Scholarship Program

- Indiana Choice Scholarship Program and application process:

<https://www.in.gov/doe/students/indiana-choice-scholarship-program/>

- Indiana Choice Scholarship Program information:

<https://www.edchoice.org/school-choice/what-is-school-choice/>

- Indiana Department of Education listing of School Choice Scholarship Program participating private schools:

<https://www.in.gov/doe/students/indiana-choice-scholarship-program/2021-2022-participating-choice-schools/>

- Indiana Department of Education list of 2022-2023 Choice Scholarship Program (voucher) amounts by school district:

<https://www.in.gov/doe/files/7-p1-Estimated-Awards-1.pdf>

- Indiana Department of Education report on finances of Choice Scholarship Program:

<https://www.in.gov/doe/files/2020-2021-Annual-Report.pdf>

- Indiana Department of Education guidance on special education services provided to Choice Scholarship students:

<https://www.in.gov/doe/files/6-choice-special-education-faq-1.pdf>



Additional Parent Resources

- Indiana State Budget:

<http://iga.in.gov/legislative/2021/bills/house/1001#document-dbc2cc8e>

Scholarship Granting Organizations

- List of Indiana Scholarship Granting Organizations:

<https://www.in.gov/doe/files/Participating-SGO-update.pdf>

Educational Scholarship Accounts

- Indiana State Treasurer website for Education Savings Account application:

<https://www.in.gov/tos/inesa/>

Homeschool

- Home School Legal Defense Association:

<https://hsllda.org/>

- Indiana Association of Home Educators:

<https://iahe.net/>