

Second Regular Session of the 119th General Assembly (2016)

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

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

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1330

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AN ACT to amend the Indiana Code concerning education.

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

SECTION 1. IC 12-17.2-7.2-2, AS ADDED BY P.L.202-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. As used in this chapter, "eligible provider" refers to a provider that satisfies the following conditions:

(1) The provider is:

(A) a:

- (i) public school, including a charter school;
- (ii) child care center licensed under IC 12-17.2-4;
- (iii) child care home licensed under IC 12-17.2-5; or
- (iv) child care ministry registered under IC 12-17.2-6;

that meets the standards of quality recognized by a Level 3 or Level 4 paths to QUALITY program rating; ~~or~~

(B) a school that is accredited by the state board of education or a national or regional accreditation agency that is recognized by the state board of education; ~~or~~

**(C) a school that is accredited to provide qualified early education services by an accrediting agency approved by the office of the secretary.**

(2) The provider provides qualified early education services to eligible children.

(3) The provider is located in a county in which the pilot program is implemented.

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SECTION 2. IC 20-19-3-2.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.1. (a) As used in this section, "school corporation" includes:

- (1) any local public school corporation established under Indiana law;
- (2) a charter school; and
- (3) an eligible school (as defined in IC 20-51-1-4.7);

that are otherwise entitled to receive federal funds under federal and state law.

(b) If, by any act of Congress, funds are provided as federal aid to education to the several states and the disposition of the funds is not otherwise provided for by or under the act of Congress or by or under any Indiana law, the apportionment and distribution of those funds to school corporations shall, insofar as consistent with the requirements prescribed by the federal law and implementing rules and regulations, be governed by the standards set forth in this section.

(c) Except as otherwise provided in this title, the department is responsible for the general administration of federal grant programs under the Elementary and Secondary Education Act of 1965 (ESEA), as amended.

(d) The department shall make timely application for any federal funds made available for school corporations in Indiana, and shall, under the federal law and this section, direct the allocation and apportionment of the federal funds received fairly, equitably, and in a timely manner to all school corporations in accordance with federal law and this section. The department must ensure that sufficient personnel are assigned to its federal grants program to enable the department to comply with subsection (c).

(e) Whenever the department provides federal formula grant funding to a school corporation, the department must also provide to the school corporation the formula and the data used to calculate the funding amount.

SECTION 3. IC 20-29-3-2, AS ADDED BY P.L. 1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) **Before July 1, 2016**, the board consists of three (3) members appointed by the governor. ~~to serve at the governor's pleasure.~~

(b) **After June 30, 2016**, the board consists of five (5) members, as follows:

- (1) Three (3) members appointed by the governor.

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**(2) One (1) member appointed by the speaker of the house of representatives who is not a member of the general assembly.**

**(3) One (1) member appointed by the president pro tempore of the senate who is not a member of the general assembly.**

**(c) Each member of the board is appointed for a term of four (4) years.**

**(d) A member appointed to fill a vacancy is appointed for the unexpired term of the member whom the appointed member is to succeed. A member may be removed by the member's appointing authority for just cause. A member appointed under this subsection serves the remainder of the unexpired term.**

SECTION 4. IC 20-29-3-3, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. **(a) Except as provided in subsection (b), this subsection applies before July 1, 2016.** The governor shall designate one (1) member of the board to serve as chairperson.

**(b) The member serving as chairperson of the board on June 30, 2016, shall serve as chairperson of the board until a chairperson is elected under subsection (c) at the first meeting of the board after June 30, 2016. This subsection expires January 1, 2017.**

**(c) After June 30, 2016, the board shall annually elect a chairperson from the members of the board. A member elected as chairperson shall serve as chairperson from July 1 through June 30 of the following year.**

SECTION 5. IC 20-29-3-3.1 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.1. **(a) Subject to subsection (b), the board shall appoint an executive director to carry out the duties and daily operations of the board. The executive director may be removed by the board for just cause.**

**(b) Notwithstanding subsection (a), not later than July 1, 2016, the governor shall appoint the initial executive director for the board. This subsection expires July 1, 2017.**

**(c) The executive director's duties include the following:**

**(1) To establish a principal office in Indianapolis.**

**(2) To conduct any administrative function on behalf of the board with respect to any hearing, investigation, inquiry, election, or review, including designating a staff person or ad hoc panel member to serve as an agent of the board for any of the following:**

**(A) Hearing examiner.**

**(B) Hearing officer.**



- (C) Factfinder.
- (D) Compliance officer.
- (E) Financial consultant.

The executive director may conduct additional related administrative functions under this subdivision.

(3) To hire and appoint staff and attorneys as necessary to ensure efficient and effective operation of the board. The attorneys appointed under this subdivision may, at the direction of the board, appear for and represent the board in court.

(4) To pay the reasonable and necessary traveling and other expenses of an employee, a member, or an agent of the board.

(5) To request from any public agency the assistance, services, and data that will enable the board to properly carry out the board's functions and powers.

(6) To publish and report in full an opinion in every case decided by the board.

(7) To declare impasse under IC 20-29-6-13.

(d) The executive director has financial and signatory powers necessary to ensure efficient and effective board operations. In addition, the board may authorize the executive director to carry out any or all of the board's powers under section 11 of this chapter unless otherwise prohibited by statute.

SECTION 6. IC 20-29-3-4, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 4. Not more than ~~two (2)~~ **three (3)** members of the board may be members of the same political party.

SECTION 7. IC 20-29-3-5 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 5. Each member of the board is appointed for a term of four (4) years. A member appointed to fill a vacancy is appointed for the unexpired term of the member whom the appointed member is to succeed.

SECTION 8. IC 20-29-3-6, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 6. Members may not:

- (+) hold:
  - (A) another public office; or
  - (B) employment by the state, a public agency, or a public employer;
- (1) hold another public office;
- (2) be an officer or employee of a school employer;
- (~~2~~) (3) be an officer or employee of a school employee

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organization or any affiliate of an organization; or

~~(3)~~ **(4)** represent a:

(A) school employer; or

(B) school employee organization, or an organization's affiliates.

SECTION 9. IC 20-29-3-7 IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 7: Section 6 of this chapter does not apply to an individual on the teaching staff of a university who is knowledgeable in public administration or labor law if the individual is not actively engaged, other than as a member, with any labor or employee organization. This section shall be construed liberally to effectuate the intent of the general assembly.~~

SECTION 10. IC 20-29-3-8 IS REPEALED [EFFECTIVE JULY 1, 2016]. ~~Sec. 8: The chairperson of the board shall give full time to the chairperson's duties and may not engage in any other business, vocation, or employment.~~

SECTION 11. IC 20-29-3-9, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: ~~Sec. 9. The members~~ **Each member** of the board ~~(other than the chairperson)~~ **who is not a state employee is entitled to receive as compensation payment** equal to that of the ~~chairperson;~~ **board's executive director**, computed on a daily rate and paid for every day actually spent serving on the board.

SECTION 12. IC 20-29-3-10, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: ~~Sec. 10. Two~~ ~~(2)~~ **Three (3)** members of the board constitute a quorum.

SECTION 13. IC 20-29-3-11, AS AMENDED BY P.L.213-2015, SECTION 185, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: ~~Sec. 11. The board has the following powers:~~

(1) To adopt an official seal and prescribe the purposes for which the seal may be used.

(2) To hold hearings and make inquiries as the board considers necessary to carry out properly the board's functions and powers.

~~(3) To establish a principal office in Indianapolis.~~

~~(4)~~ **(3)** To meet and exercise the board's powers at any other place in Indiana.

~~(5)~~ **(4)** To conduct in any part of Indiana a proceeding, a hearing, an investigation, an inquiry, or an election necessary to the performance of the board's functions. ~~For this purpose, the board may designate one~~ ~~(1)~~ **member, or an agent or agents, as hearing**

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examiners. The board may use voluntary and uncompensated services as needed.

~~(6)~~ To appoint staff and attorneys as the board finds necessary for the proper performance of its duties. The attorneys appointed under this section may, at the direction of the board, appear for and represent the board in court.

~~(7)~~ To pay the reasonable and necessary traveling and other expenses of an employee, a member, or an agent of the board.

~~(8)~~ **(5)** To subpoena witnesses and issue subpoenas requiring the production of books, papers, records, and documents that may be needed as evidence in any matter under inquiry, and to administer oaths and affirmations. In cases of neglect or refusal to obey a subpoena issued to a person, the circuit or superior court of the county in which the investigations or the public hearings are taking place, upon application by the board, shall issue an order requiring the person to:

(A) appear before the board; and

(B) produce evidence about the matter under investigation.

A failure to obey the order may be punished by the court as a contempt. A subpoena, notice of hearing, or other process of the board issued under this chapter shall be served in the manner prescribed by the Indiana Rules of Trial Procedure.

~~(9)~~ **(6)** To adopt, amend, or rescind rules the board considers necessary and administratively feasible to carry out this chapter under IC 4-22-2.

~~(10)~~ **(7)** To request from any public agency the assistance, services, and data that will enable the board properly to carry out the board's functions and powers.

~~(11)~~ To publish and report in full an opinion in every case decided by the board.

~~(12)~~ **(8)** To review a collective bargaining agreement under IC 20-29-6-6.1.

**(9) To direct the activities of the executive director of the board.**

SECTION 14. IC 20-29-3-14, AS ADDED BY P.L.1-2005, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 14. **(a)** The board's ~~research division must be organized to provide:~~ **executive director shall collect on behalf of the board:**

- (1) statistical data on the resources of each school corporation;
- (2) the substance of any agreements reached by each school corporation; and

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(3) other relevant data **as determined by the board or the board's executive director.**

**(b) Parties to a collective bargaining agreement shall comply with the board's requests for information necessary to comply with subsection (a).**

SECTION 15. IC 20-31-1-1, AS ADDED BY P.L.1-2005, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. This article applies only to the following:

(1) **Except as provided in IC 20-31-4-1.1**, public schools.

(2) Except as provided in IC 20-31-7 and IC 20-31-9, nonpublic schools that voluntarily become accredited under IC 20-19-2-8.

SECTION 16. IC 20-31-4-1.1 IS ADDED TO THE INDIANA CODE AS A **NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1.1. Other than sections 1, 2, 3, 4, and 17 of this chapter, this chapter does not apply to a charter school.**

SECTION 17. IC 20-33-2-12, AS ADDED BY P.L.1-2005, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 12. (a) A school that is:

(1) nonpublic;

(2) nonaccredited; and

(3) not otherwise approved by the state board;

is not bound by any requirements set forth in IC 20 or IC 21 with regard to curriculum or the content of educational programs offered by the school.

(b) This section may not be construed to prohibit a student who attends a school described in subsection (a) from enrolling in a particular educational program or participating in a particular educational initiative offered by an accredited public, nonpublic, or state board approved nonpublic school if:

(1) the governing body or superintendent, in the case of the accredited public school; or

(2) the administrative authority, in the case of the accredited or state board approved nonpublic school;

approves the enrollment or participation by the student.

**(c) A student who attends a school described in subsection (a) who also enrolls in a particular educational program or initiative as permitted under subsection (b) may be offered the opportunity to participate in state standardized assessments, but such participation is not required.**

SECTION 18. IC 20-43-4-6, AS AMENDED BY P.L.205-2013, SECTION 278, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2016]: Sec. 6. (a) In determining ADM, each pupil enrolled in a public school, **including a charter school**, and a nonpublic school is to be counted on a full-time equivalency basis if the pupil:

- (1) is enrolled in a public school and a nonpublic school;
- (2) has legal settlement in a school corporation; and
- (3) receives instructional services from the school corporation.

(b) For purposes of this section, full-time equivalency is calculated as follows:

STEP ONE: Determine the result of:

- (A) the number of days instructional services will be provided to the pupil, not to exceed one hundred eighty (180); divided by
- (B) one hundred eighty (180).

STEP TWO: Determine the result of:

- (A) the pupil's public school instructional time (as defined in IC 20-30-2-1); divided by
- (B) the actual public school regular instructional day (as defined in IC 20-30-2-2).

STEP THREE: Determine the result of:

- (A) the STEP ONE result; multiplied by
- (B) the STEP TWO result.

STEP FOUR: Determine the lesser of one (1) or the result of:

- (A) the STEP THREE result; multiplied by
- (B) one and five hundredths (1.05).

However, the state board may, by rules adopted under IC 4-22-2, specify an equivalent formula if the state board determines that the equivalent formula would more accurately reflect the instructional services provided by a school corporation during a period that a particular ADM count is in effect for the school corporation.

**SECTION 19. [EFFECTIVE UPON PASSAGE] (a) The definitions in IC 20-29-2 apply throughout this SECTION.**

**(b) The terms of members serving on the board appointed by the governor under IC 20-29-3-2, before its amendment by this act, remain in effect as provided in IC 20-29-3-5, before its repeal by this act.**

**(c) The term of members appointed under IC 20-29-3-2(b)(2) through IC 20-29-3-2(b)(3), both as added by this act, begins on June 1, 2016.**

**(d) This SECTION expires January 1, 2020.**

**SECTION 20. An emergency is declared for this act.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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