

# HOUSE BILL No. 1192

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 20-1-6-16; IC 20-8.1-5.1-27; IC 20-10.1-16-3; IC 20-10.1-16-8; IC 20-10.1-17-2; IC 20-10.1-17-10.

**Synopsis:** Special education. Changes the membership of the state advisory council on the education of children with disabilities and provides additional duties for the advisory council. Provides that a disciplinary action against a child with disabilities is subject to federal and state procedural requirements and that the child continues to be entitled to receive a free appropriate public education. Makes certain changes regarding ISTEP testing for children with disabilities.

**Effective:** July 1, 1998.

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**Warner, Robertson**

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January 8, 1998, read first time and referred to Committee on Education.

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Introduced

Second Regular Session 110th General Assembly (1998)

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 1997 General Assembly.

## HOUSE BILL No. 1192

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

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

1 SECTION 1. IC 20-1-6-16, AS AMENDED BY P.L.40-1994,  
2 SECTION 72, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3 JULY 1, 1998]: Sec. 16. (a) The ~~state~~ superintendent ~~of public~~  
4 ~~instruction~~ shall appoint a state advisory council **on the education of**  
5 **children with disabilities** whose duties shall consist of ~~assisting the~~  
6 ~~department of education in the development of a statewide plan to~~  
7 ~~provide a free appropriate education meeting the special needs of~~  
8 **providing policy guidance concerning special education and related**  
9 **services for** children with disabilities. The superintendent shall appoint  
10 ~~twelve (12)~~ **at least seventeen (17)** members who shall serve for a  
11 period of four (4) years. Vacancies shall be filled in like manner for the  
12 unexpired balance of the term. ~~Because of the responsibility of the state~~  
13 ~~department of health, the division of disability, aging, and rehabilitative~~  
14 ~~services, and the division of mental health for residential special~~  
15 ~~education programs, the commissioner of the state department of health~~  
16 ~~or the commissioner's designee, the director of the division of~~  
17 ~~disability, aging, and rehabilitative services or the director's designee,~~

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1 and the director of the division of mental health or the director's  
 2 designee shall be ex officio members of the council. In addition, the  
 3 director of the division of family and children or the director's designee  
 4 and the director of the division of disability, aging, and rehabilitative  
 5 services or the director's designee shall be ex officio members of the  
 6 council.

7 (b) The members must be citizens of Indiana **who are**  
 8 **representative of the state's population** and ~~shall be~~ selected on the  
 9 basis of their knowledge of or experience in problems of **involvement**  
 10 **in or concern with** the education of children with disabilities. **A**  
 11 **majority of the members must be individuals with disabilities or**  
 12 **the parents of children with disabilities. Members must include the**  
 13 **following:**

- 14 (1) **Parents of children with disabilities.**
- 15 (2) **Individuals with disabilities.**
- 16 (3) **Teachers.**
- 17 (4) **Representatives of higher education institutions that**  
 18 **prepare special education and related services personnel.**
- 19 (5) **State and local education officials.**
- 20 (6) **Administrators of programs for children with disabilities.**
- 21 (7) **Representatives of state agencies involved in the financing**  
 22 **or delivery of related services to children with disabilities,**  
 23 **including the following:**
  - 24 (A) **The commissioner of the state department of health or**  
 25 **the commissioner's designee.**
  - 26 (B) **The director of the division of disability, aging, and**  
 27 **rehabilitative services or the director's designee.**
  - 28 (C) **The director of the division of mental health or the**  
 29 **director's designee.**
  - 30 (D) **The director of the division of family and children or**  
 31 **the director's designee.**
- 32 (8) **Representatives of nonpublic schools and freeway schools.**
- 33 (9) **One (1) or more representatives of vocational, community,**  
 34 **or business organizations concerned with the provision of**  
 35 **transitional services to children with disabilities.**
- 36 (10) **Representatives of the department of correction.**

37 (c) The responsibilities of the state advisory council ~~shall be:~~ **are as**  
 38 **follows:**

- 39 (1) To advise the ~~state~~ superintendent of ~~public instruction~~ and  
 40 the ~~Indiana state~~ board of education regarding all rules pertaining  
 41 to children with disabilities. ~~and~~
- 42 (2) To recommend approval or rejection of completed

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1 comprehensive plans submitted by school corporations acting  
 2 individually or on a joint school services program basis with other  
 3 corporations.

4 **(3) To advise the department of unmet needs within the state**  
 5 **in the education of children with disabilities.**

6 **(4) To provide public comment on rules proposed by the**  
 7 **board regarding the education of children with disabilities.**

8 **(5) To advise the department in developing evaluations and**  
 9 **reporting data to the United States Secretary of Education**  
 10 **under 20 U.S.C. 1418.**

11 **(6) To advise the department in developing corrective action**  
 12 **plans to address findings identified in federal monitoring**  
 13 **reports under 20 U.S.C. 1400 et seq.**

14 **(7) To advise the department in developing and implementing**  
 15 **policies related to the coordination of services for children**  
 16 **with disabilities.**

17 (d) The council shall organize with a ~~chairman~~ **chairperson**  
 18 selected by the council members and ~~shall meet as often as necessary~~  
 19 **to conduct the council's business** at the call of the ~~chairman~~  
 20 **chairperson** upon ten (10) days written notice but not less than four (4)  
 21 times a year. ~~The council shall consider any comprehensive plan~~  
 22 ~~proposed by school corporations within sixty (60) days after its receipt~~  
 23 ~~by the chairman.~~ Members of the council shall be entitled to reasonable  
 24 amounts for expenses necessarily incurred in the performance of their  
 25 duties.

26 (e) The superintendent of ~~public instruction~~ shall designate the  
 27 director to act as executive secretary of the council and shall furnish all  
 28 professional and clerical assistance necessary for the performance of  
 29 its powers and duties.

30 SECTION 2. IC 20-8.1-5.1-27 IS ADDED TO THE INDIANA  
 31 CODE AS A NEW SECTION TO READ AS FOLLOWS  
 32 [EFFECTIVE JULY 1, 1998]: **Sec. 27. (a) Notwithstanding any other**  
 33 **law, a suspension, an expulsion, or another disciplinary action**  
 34 **against a student who is a child with a disability (as defined in**  
 35 **IC 20-1-6-1) is subject to the:**

36 **(1) procedural requirements of 20 U.S.C. 1415; and**

37 **(2) rules adopted by the Indiana state board of education.**

38 **(b) A student who is a child with a disability (as defined in**  
 39 **IC 20-1-6-1) continues to be entitled to a free appropriate public**  
 40 **education during a:**

41 **(1) suspension of more than ten (10) cumulative days during**  
 42 **a school year; or**



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1 (2) period of expulsion.

2 (c) The division of special education shall propose rules under  
3 IC 20-1-6-2.1(a)(5) to the Indiana state board of education for  
4 adoption under IC 4-22-2 governing suspensions, expulsions, and  
5 other disciplinary action for a student who is a child with a  
6 disability (as defined in IC 20-1-6-1).

7 SECTION 3. IC 20-10.1-16-3, AS AMENDED BY P.L.340-1995,  
8 SECTION 62, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
9 JULY 1, 1998]: Sec. 3. As used in this chapter, "student" means any  
10 individual who is enrolled in:

- 11 (1) a public school;  
12 (2) an accredited nonpublic school; or  
13 (3) another nonpublic school that has requested and received from  
14 the state board specific approval of the school's educational  
15 program.

16 ~~The term does not include a child with a disability (as defined in~~  
17 ~~IC 20-1-6-1) whose individualized education program does not include~~  
18 ~~regular classroom instruction in mathematics and English/language~~  
19 ~~arts.~~

20 SECTION 4. IC 20-10.1-16-8, AS AMENDED BY P.L.34-1996,  
21 SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 1998]: Sec. 8. (a) The state superintendent shall develop an  
23 ISTEP program testing schedule in which each student in grades 3, 6,  
24 8, and 10 must be tested and each student must take a graduation  
25 examination.

26 (b) A **student who is a child with a disability (as defined in**  
27 **IC 20-1-6-1) whose individualized education program does not include**  
28 **classroom instruction in mathematics and English/language arts may**  
29 **shall be tested under this chapter if with appropriate**  
30 **accommodations in testing materials and procedures unless the**  
31 **individuals who develop the child's individualized education program**  
32 **make that determination. determine that testing under this chapter,**  
33 **or a part of the testing, is not appropriate for the student and that**  
34 **an alternate assessment will be used to test the student's**  
35 **achievement.**

36 (c) Any decision with regard to a **student who is a child with a**  
37 **disability (as defined in IC 20-1-6-1) to participate in testing under this**  
38 **chapter, to receive accommodations in testing materials and**  
39 **procedure, to participate in remediation under IC 20-10.1-17, or to**  
40 **be retained at the same grade level for consecutive school years shall**  
41 **be made in accordance with the child's individualized education**  
42 **program, subject to the ISTEP program manual, and federal law.**



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1 SECTION 5. IC 20-10.1-17-2 IS AMENDED TO READ AS  
2 FOLLOWS [EFFECTIVE JULY 1, 1998]: Sec. 2. As used in this  
3 chapter, "student" means any individual who is enrolled in a school  
4 corporation. ~~The term does not include a child with a disability (as~~  
5 ~~defined in IC 20-1-6-1) whose individualized education program does~~  
6 ~~not include regular classroom instruction in mathematics and~~  
7 ~~English/language arts.~~

8 SECTION 6. IC 20-10.1-17-10, AS AMENDED BY P.L.340-1995,  
9 SECTION 76, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 1998]: Sec. 10. Notwithstanding the requirements of this  
11 chapter, any decisions made with regard to:

- 12 (1) attendance in a remediation program;  
13 (2) ISTEP program testing; and  
14 (3) the grade level placement;

15 for a **student who is a child with a disability** (as defined in  
16 IC 20-1-6-1) shall be made in accordance with the individualized  
17 education program (as defined in IC 20-1-6-1) of that ~~child~~ **student,**  
18 **subject to the ISTEP program manual,** and federal law.

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