



Reprinted
April 10, 2013

ENGROSSED HOUSE BILL No. 1423

DIGEST OF HB 1423 (Updated April 9, 2013 7:09 pm - DI 71)

Citations Affected: IC 5-2; IC 20-20; IC 20-26; IC 20-30; IC 20-33; IC 20-34; IC 21-39.

Synopsis: Antibullying. Requires the department of education, in consultation with school safety specialists and school counselors, to develop guidelines to assist school corporations and safe school committees in establishing bullying prevention programs, investigation and reporting procedures, and discipline rules. Requires each school corporation to include the number and categories of bullying incidents that occur within the school corporation on the school corporation's annual performance report. Requires each school corporation to provide training to school employees and volunteers concerning the
(Continued next page)

Effective: July 1, 2013; July 1, 2014.

Porter, Behning, Battles, Burton

(SENATE SPONSORS — MILLER PETE, KRUSE, ROGERS, KENLEY,
WYSS)

January 22, 2013, read first time and referred to Committee on Education.
February 18, 2013, reported — Do Pass.
February 20, 2013, read second time, ordered engrossed. Engrossed.
February 25, 2013, read third time, passed. Yeas 77, nays 17.

SENATE ACTION

February 27, 2013, read first time and referred to Committee on Education and Career Development.
April 4, 2013, amended, reported favorably — Do Pass.
April 9, 2013, read second time, amended, ordered engrossed.

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Digest Continued

school corporation's bullying prevention program, and to provide annual bullying prevention education to students. Modifies the definition of "bullying". Requires each school corporation to include detailed procedures for investigation and reporting of bullying behaviors in the school corporation's discipline rules. Requires each school corporation to include detailed procedures outlining the use of follow-up services for support services for the victim and bullying education for the bully in the school corporation's discipline rules. Sets out a bullying reporting requirement for each school corporation. Requires that if a board of trustees of a state educational institution elects to govern, by regulation or another means, the conduct of students, faculty, employees, and others on the property owned, used, or occupied by the state educational institution, the regulation must include a policy prohibiting bullying.

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April 10, 2013

First Regular Session 118th General Assembly (2013)

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 2012 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1423

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 5-2-10.1-12, AS AMENDED BY P.L.132-2007,
2 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2013]: Sec. 12. (a) Each school within a school corporation
4 shall establish a safe school committee. The committee may be a
5 subcommittee of the committee that develops the strategic and
6 continuous school improvement and achievement plan under
7 IC 20-31-5.
8 (b) The department of education and the school corporation's school
9 safety specialist shall provide materials **and guidelines** to assist a safe
10 school committee in developing a plan **and policy** for the school that
11 addresses the following issues:
12 (1) Unsafe conditions, crime prevention, school violence,
13 bullying, and other issues that prevent the maintenance of a safe
14 school.
15 (2) Professional development needs for faculty and staff to
16 implement methods that decrease problems identified under
17 subdivision (1).

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1 (3) Methods to encourage:

2 (A) involvement by the community and students;

3 (B) development of relationships between students and school
4 faculty and staff; and

5 (C) use of problem solving teams.

6 (c) As a part of the plan developed under subsection (b), each safe
7 school committee shall provide a copy of the floor plans for each
8 building located on the school's property that clearly indicates each
9 exit, the interior rooms and hallways, and the location of any hazardous
10 materials located in the building to the law enforcement agency and the
11 fire department that have jurisdiction over the school.

12 **(d) The guidelines developed under subsection (b) must include**
13 **age appropriate, research based information that assists school**
14 **corporations and safe school committees in:**

15 **(1) developing and implementing bullying prevention**
16 **programs;**

17 **(2) establishing investigation and reporting procedures**
18 **related to bullying; and**

19 **(3) adopting discipline rules that comply with IC 20-33-8-13.5.**

20 **(e) In addition to developing guidelines under subsection (b), the**
21 **department of education shall establish categories of types of**
22 **bullying incidents to allow school corporations to use the categories**
23 **in making reports under IC 20-20-8-8 and IC 20-34-6-1.**

24 SECTION 2. IC 20-20-8-8, AS AMENDED BY P.L.3-2008,
25 SECTION 115, IS AMENDED TO READ AS FOLLOWS
26 [EFFECTIVE JULY 1, 2014]: Sec. 8. The report must include the
27 following information:

28 (1) Student enrollment.

29 (2) Graduation rate (as defined in IC 20-26-13-6).

30 (3) Attendance rate.

31 (4) The following test scores, including the number and
32 percentage of students meeting academic standards:

33 (A) ISTEP program test scores.

34 (B) Scores for assessments under IC 20-32-5-21, if
35 appropriate.

36 (C) For a freeway school, scores on a locally adopted
37 assessment program, if appropriate.

38 (5) Average class size.

39 (6) The number and percentage of students in the following
40 groups or programs:

41 (A) Alternative education, if offered.

42 (B) Career and technical education.

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- 1 (C) Special education.
 2 (D) High ability.
 3 (E) Remediation.
 4 (F) Limited English language proficiency.
 5 (G) Students receiving free or reduced price lunch under the
 6 national school lunch program.
 7 (H) School flex program, if offered.
 8 (7) Advanced placement, including the following:
 9 (A) For advanced placement tests, the percentage of students:
 10 (i) scoring three (3), four (4), and five (5); and
 11 (ii) taking the test.
 12 (B) For the Scholastic Aptitude Test:
 13 (i) test scores for all students taking the test;
 14 (ii) test scores for students completing the academic honors
 15 diploma program; and
 16 (iii) the percentage of students taking the test.
 17 (8) Course completion, including the number and percentage of
 18 students completing the following programs:
 19 (A) Academic honors diploma.
 20 (B) Core 40 curriculum.
 21 (C) Career and technical programs.
 22 (9) The percentage of grade 8 students enrolled in algebra I.
 23 (10) The percentage of graduates who pursue higher education.
 24 (11) School safety, including:
 25 (A) the number of students receiving suspension or expulsion
 26 for the possession of alcohol, drugs, or weapons; **and**
 27 (B) the number of incidents reported under IC 20-33-9; **and**
 28 (C) **the number of bullying incidents reported under**
 29 **IC 20-34-6 by category.**
 30 (12) Financial information and various school cost factors,
 31 including the following:
 32 (A) Expenditures per pupil.
 33 (B) Average teacher salary.
 34 (C) Remediation funding.
 35 (13) Technology accessibility and use of technology in
 36 instruction.
 37 (14) Interdistrict and intradistrict student mobility rates, if that
 38 information is available.
 39 (15) The number and percentage of each of the following within
 40 the school corporation:
 41 (A) Teachers who are certificated employees (as defined in
 42 IC 20-29-2-4).

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- 1 (B) Teachers who teach the subject area for which the teacher
- 2 is certified and holds a license.
- 3 (C) Teachers with national board certification.
- 4 (16) The percentage of grade 3 students reading at grade 3 level.
- 5 (17) The number of students expelled, including the number
- 6 participating in other recognized education programs during their
- 7 expulsion.
- 8 (18) Chronic absenteeism, which includes the number of students
- 9 who have been absent more than ten (10) days from school within
- 10 a school year without being excused.
- 11 (19) The number of students who have dropped out of school,
- 12 including the reasons for dropping out.
- 13 (20) The number of student work permits revoked.
- 14 (21) The number of student driver's licenses revoked.
- 15 (22) The number of students who have not advanced to grade 10
- 16 due to a lack of completed credits.
- 17 (23) The number of students suspended for any reason.
- 18 (24) The number of students receiving an international
- 19 baccalaureate diploma.
- 20 (25) Other indicators of performance as recommended by the
- 21 education roundtable under IC 20-19-4.

22 SECTION 3. IC 20-26-5-34.2 IS ADDED TO THE INDIANA
 23 CODE AS A NEW SECTION TO READ AS FOLLOWS
 24 [EFFECTIVE JULY 1, 2013]: **Sec. 34.2. A school corporation shall**
 25 **provide training to the school corporation's employees and**
 26 **volunteers who have direct, ongoing contact with students**
 27 **concerning the school's bullying prevention and reporting policy**
 28 **adopted under IC 20-33-8-13.5.**

29 SECTION 4. IC 20-30-5-5.5 IS ADDED TO THE INDIANA CODE
 30 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 31 1, 2013]: **Sec. 5.5. (a) Not later than October 15 of each year, each**
 32 **public school shall provide age appropriate, research based**
 33 **instruction as provided under IC 5-2-10.1-12(d)(1) focusing on**
 34 **bullying prevention for all students in grades 1 through 12.**

35 (b) The department, in consultation with school safety
 36 specialists and school counselors, shall prepare outlines or
 37 materials for the instruction described in subsection (a) and
 38 incorporate the instruction in grades 1 through 12.

39 (c) Instruction on bullying prevention may be delivered by a
 40 school safety specialist, school counselor, or any other person with
 41 training and expertise in the area of bullying prevention and
 42 intervention.

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1 SECTION 5. IC 20-33-8-0.2, AS ADDED BY P.L.106-2005,
 2 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 3 JULY 1, 2013]: Sec. 0.2. **(a)** As used in this chapter, "bullying" means
 4 overt, **unwanted**, repeated acts or gestures, including ~~(1)~~ verbal or
 5 written communications **or images transmitted in any manner**
 6 **(including digitally or electronically)**, ~~(2)~~ physical acts committed,
 7 **aggression**, or ~~(3)~~ any other behaviors, **that are** committed by a
 8 student or group of students against another student with the intent to
 9 harass, ridicule, humiliate, intimidate, or harm the ~~other~~ **targeted**
 10 **student and create for the targeted student an objectively hostile**
 11 **school environment that:**

12 **(1) places the targeted student in reasonable fear of harm to**
 13 **the targeted student's person or property;**

14 **(2) has a substantially detrimental effect on the targeted**
 15 **student's physical or mental health;**

16 **(3) has the effect of substantially interfering with the targeted**
 17 **student's academic performance; or**

18 **(4) has the effect of substantially interfering with the targeted**
 19 **student's ability to participate in or benefit from the services,**
 20 **activities, and privileges provided by the school.**

21 **(b) The term may not be interpreted to impose any burden or**
 22 **sanction on, or include in the definition of the term, the following:**

23 **(1) Participating in a religious event.**

24 **(2) Acting in an emergency involving the protection of a**
 25 **person or property from an imminent threat of serious bodily**
 26 **injury or substantial danger.**

27 **(3) Participating in an activity consisting of the exercise of a**
 28 **student's rights protected under the First Amendment to the**
 29 **United States Constitution or Article I, Section 31 of the**
 30 **Constitution of the State of Indiana, or both.**

31 **(4) Participating in an activity conducted by a nonprofit or**
 32 **governmental entity that provides recreation, education,**
 33 **training, or other care under the supervision of one (1) or**
 34 **more adults.**

35 **(5) Participating in an activity undertaken at the prior written**
 36 **direction of the student's parent.**

37 **(6) Engaging in interstate or international travel from a**
 38 **location outside Indiana to another location outside Indiana.**

39 SECTION 6. IC 20-33-8-13.5, AS AMENDED BY P.L.180-2011,
 40 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 JULY 1, 2013]: Sec. 13.5. (a) Discipline rules adopted by the
 42 governing body of a school corporation under section 12 of this chapter

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- 1 must:
- 2 (1) prohibit bullying; and
- 3 (2) include:
- 4 (A) provisions concerning education, parental involvement,
- 5 reporting, investigation; and intervention;
- 6 (B) a detailed procedure for the expedited investigation of
- 7 incidents of bullying that includes:
- 8 (i) appropriate responses to bullying behaviors,
- 9 wherever the behaviors occur;
- 10 (ii) provisions for anonymous and personal reporting of
- 11 bullying to a teacher or other school staff;
- 12 (iii) timetables for reporting of bullying incidents to the
- 13 parents of both the targeted student and the bully, in an
- 14 expedited manner;
- 15 (iv) timetables for reporting of bullying incidents to
- 16 school counselors, school administrators, the
- 17 superintendent, or law enforcement, if it is determined
- 18 that reporting the bullying incident to law enforcement
- 19 is necessary;
- 20 (v) discipline provisions for teachers, school staff, or
- 21 school administrators who fail to initiate or conduct an
- 22 investigation of a bullying incident; and
- 23 (vi) discipline provisions for false reporting of bullying;
- 24 and
- 25 (C) a detailed procedure outlining the use of follow-up
- 26 services that includes:
- 27 (i) support services for the victim; and
- 28 (ii) bullying education for the bully.
- 29 (b) The discipline rules described in subsection (a) must apply when
- 30 a student is: (1) on school grounds immediately before or during school
- 31 hours, immediately after school hours, or at any other time when the
- 32 school is being used by a school group; (2) off school grounds at a
- 33 school activity, function, or event; (3) traveling to or from school or a
- 34 school activity, function, or event; or (4) using property or equipment
- 35 provided by the school: **may be applied regardless of the physical**
- 36 **location in which the bullying behavior occurred, whenever:**
- 37 (1) the individual committing the bullying behavior and any
- 38 of the intended targets of the bullying behavior are students
- 39 attending a school within a school corporation; and
- 40 (2) disciplinary action is reasonably necessary to avoid
- 41 substantial interference with school discipline or prevent an
- 42 unreasonable threat to the rights of others to a safe and

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1 **peaceful learning environment.**

2 (c) The discipline rules described in subsection (a) must prohibit
3 bullying through the use of data or computer software that is accessed
4 through a:

- 5 (1) computer;
6 (2) computer system; or
7 (3) computer network.

8 ~~of a school corporation.~~

9 (d) This section may not be construed to give rise to a cause of
10 action against a person or school corporation based on an allegation of
11 noncompliance with this section. Noncompliance with this section may
12 not be used as evidence against a school corporation in a cause of
13 action.

14 **(e) A record made of an investigation, a disciplinary action, or
15 a follow-up action performed under rules adopted under this
16 section is not a public record under IC 5-14-3.**

17 **(f) The department shall periodically review each policy adopted
18 under this section to ensure the policy's compliance with this
19 section.**

20 SECTION 7. IC 20-34-6-1, AS ADDED BY P.L.74-2010,
21 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
22 JULY 1, 2014]: Sec. 1. (a) By July 1 of each year, each school
23 corporation shall submit a report to the department detailing the
24 following information for the current school year for each school in the
25 school corporation and for the entire school corporation:

26 (1) The number of arrests of students on school corporation
27 property, including arrests made by law enforcement officers,
28 security guards, school safety specialists, and other school
29 corporation employees, and any citizen arrests.

30 (2) The offenses for which students were arrested on school
31 corporation property.

32 (3) The number of contacts with law enforcement personnel from
33 a school corporation employee that have resulted in arrests of
34 students not on school corporation property.

35 (4) Statistics concerning the age, race, and gender of students
36 arrested on school corporation property and categorizing the
37 statistics by offenses.

38 (5) Whether the school corporation has established and employs
39 a school corporation police department under IC 20-26-16, and if
40 so, report:

41 (A) the number of officers in the school corporation police
42 department; and

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1 (B) the training the officers must complete.
 2 (6) If the school corporation employs private security guards to
 3 enforce rules or laws on school property, a detailed explanation
 4 of the use of private security guards by the school corporation.
 5 (7) If the school corporation has an agreement with a local law
 6 enforcement agency regarding procedures to arrest students on
 7 school property, a detailed explanation of the use of the local law
 8 enforcement agency by the school corporation.
 9 **(8) The number of reported bullying incidents involving a**
 10 **student of the school corporation by category. However,**
 11 **nothing in this subdivision may be construed to require all**
 12 **bullying incidents to be reported to a law enforcement agency.**
 13 (b) By August 1 of each year, the department shall submit a report
 14 to:
 15 (1) the legislative council;
 16 (2) the education roundtable established by IC 20-19-4-2;
 17 (3) the board for the coordination of programs serving vulnerable
 18 individuals established by IC 4-23-30.2-8; and
 19 (4) the criminal justice institute;
 20 providing a summary of the reports submitted to the department under
 21 subsection (a). The report to the legislative council must be in an
 22 electronic format under IC 5-14-6.
 23 (c) By August 1 of each year, the department must post the reports
 24 described in subsections (a) and (b) on the department's Internet web
 25 site.
 26 SECTION 8. IC 21-39-2-2.1 IS ADDED TO THE INDIANA CODE
 27 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 28 1, 2013]: **Sec. 2.1. (a) This section applies to the board of trustees**
 29 **of the following state educational institutions:**
 30 **(1) Ball State University.**
 31 **(2) Indiana University.**
 32 **(3) Indiana State University.**
 33 **(4) Purdue University.**
 34 **(5) University of Southern Indiana.**
 35 **(b) As used in this section, "bullying" means overt, unwanted,**
 36 **repeated acts or gestures, including verbal or written**
 37 **communications or images transmitted in any manner (including**
 38 **digitally or electronically), physical acts committed, aggression, or**
 39 **any other behaviors, that are committed by a student or group of**
 40 **students against another student with the intent to harass, ridicule,**
 41 **humiliate, intimidate, or harm the other student and create for the**
 42 **targeted student, while the targeted student is on the property**

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1 owned, used, or occupied by the state educational institution, an
2 objectively hostile environment that:
3 (1) places the targeted student in reasonable fear of harm to
4 the targeted student's person or property;
5 (2) has a substantially detrimental effect on the targeted
6 student's physical or mental health;
7 (3) has the effect of substantially interfering with the targeted
8 student's academic performance; or
9 (4) has the effect of substantially interfering with the targeted
10 student's ability to participate in or benefit from the services,
11 activities, and privileges provided by the state educational
12 institution.
13 (c) If the board of trustees of a state educational institution
14 elects to govern, by regulation or another means, the conduct of
15 students, faculty, employees, and others on the property owned,
16 used, or occupied by the state educational institution, the
17 regulation must include a policy prohibiting bullying.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Education, to which was referred House Bill 1423, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill do pass.

BEHNING, Chair

Committee Vote: yeas 9, nays 0.

 COMMITTEE REPORT

Madam President: The Senate Committee on Education and Career Development, to which was referred House Bill No. 1423, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 18, delete "IC 20-26-5-34" and insert "IC 20-26-5-34.2".

Page 4, line 20, delete "34." and insert "**34.2**".

Page 4, line 39, after "0.2." insert "**(a)**".

Page 4, line 40, after "overt," insert "**unwanted,**".

Page 4, line 41, after "communications" insert "**or images**".

Page 5, line 1, delete "behaviors" and insert "behaviors, **that are**".

Page 5, between lines 13 and 14, begin a new paragraph and insert: "**(b) The term may not be interpreted to impose any burden or sanction on, or include in the definition of the term, the following:**

- (1) Participating in a religious event.**
- (2) Acting in an emergency involving the protection of a person or property from an imminent threat of serious bodily injury or substantial danger.**
- (3) Participating in an activity consisting of the exercise of a student's rights protected under the First Amendment to the United States Constitution or Article I, Section 31 of the Constitution of the State of Indiana, or both.**
- (4) Participating in an activity conducted by a nonprofit or governmental entity that provides recreation, education, training, or other care under the supervision of one (1) or more adults.**
- (5) Participating in an activity undertaken at the prior written direction of the student's parent.**

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(6) Engaging in interstate or international travel from a location outside Indiana to another location outside Indiana."

Page 5, line 36, after "bullying;" insert "**and**".

Page 5, line 41, delete "item" and insert "**subdivision**".

Page 6, line 2, strike "must apply".

Page 6, line 8, delete "wherever the bullying behaviors occur." and insert "**may be applied regardless of the physical location in which the bullying behavior occurred, whenever:**

(1) the individual committing the bullying behavior and any of the intended targets of the bullying behavior are students attending a school within a school corporation; and

(2) disciplinary action is reasonably necessary to avoid substantial interference with school discipline or prevent an unreasonable threat to the rights of others to a safe and peaceful learning environment."

Page 6, between lines 20 and 21, begin a new paragraph and insert: "**(e) A record made of an investigation, a disciplinary action, or a follow-up action performed under rules adopted under this section is not a public record under IC 5-14-3.**"

Page 6, line 21, delete "(e)" and insert "**(f)**".

Page 7, line 14, after "corporation." insert "**However, nothing in this subdivision may be construed to require all bullying incidents to be reported to a law enforcement agency.**"

Page 7, line 37, after "overt," insert "**unwanted,**".

Page 7, line 38, after "communications" insert "**or images**".

Page 7, line 40, delete "behaviors" and insert "**behaviors, that are**".

and when so amended that said bill do pass.

(Reference is to HB 1423 as printed February 18, 2013.)

KRUSE, Chairperson

Committee Vote: Yeas 8, Nays 2.

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SENATE MOTION

Madam President: I move that Engrossed House Bill 1423 be amended to read as follows:

Page 2, line 12, after "include" insert "**age appropriate, research based**".

Page 2, between lines 19 and 20, begin a new paragraph and insert:

"(e) In addition to developing guidelines under subsection (b), the department of education shall establish categories of types of bullying incidents to allow school corporations to use the categories in making reports under IC 20-20-8-8 and IC 20-34-6-1."

Page 2, line 22, delete "2013]:" and insert "2014]:".

Page 3, line 24, delete "and nature".

Page 3, line 25, delete "." and insert "**by category.**".

Page 4, line 28, after "appropriate" insert ", **research based**".

Page 4, line 28, after "instruction" insert "**as provided under IC 5-2-10.1-12(d)(1)**".

Page 6, line 1, delete "prompt" and insert "**expedited**".

Page 6, line 6, delete "incidents".

Page 6, line 8, after "bully," insert "**in an expedited manner;**

(iv) timetables for reporting of bullying incidents to school counselors,".

Page 6, line 9, delete "school".

Page 6, line 10, delete "applicable;" and insert "**it is determined that reporting the bullying incident to law enforcement is necessary;**".

Page 6, line 11, delete "(iv)" and insert "**(v)**".

Page 6, line 14, delete "(v)" and insert "**(vi)**".

Page 6, delete lines 20 through 22.

Page 7, line 16, delete "2013]:" and insert "2014]:".

Page 8, line 3, delete "and nature".

Page 8, line 4, delete "." and insert "**by category.**".

(Reference is to EHB 1423 as printed April 5, 2013.)

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