



# INDIANA STATE BOARD OF EDUCATION

**TO:** State Board of Education

**FROM:** State Board Staff

**DATE:** March 4, 2015

**RE:** Freeway School Contract

**Recommended action:** Approve the contract submitted with these materials for use in accrediting Freeway Schools.

A Freeway School is a school that is given greater flexibility in conducting its educational and financial affairs, as long as the school maintains certain minimum education benefits.<sup>1</sup> For a Freeway School to be accredited, it must petition the State Board of Education (“SBOE”) for accreditation as a Freeway School by showing how it intends to achieve and maintain education benefits.<sup>2</sup> If the SBOE approves the petition, the school must enter into a contract with the SBOE that requires the school to maintain minimum educational benefits as set forth by statute.<sup>3</sup> If the school fails to maintain those benefits, the contract becomes void, and the school automatically loses its accreditation.<sup>4</sup>

A Freeway School is offered the flexibility to waive certain statutes and rules concerning four areas: (1) curriculum and institutional time, including the 9-month school term, and classes on safety, hygiene, and drug and alcohol; (2) curricular materials, including selection of material and purchases of textbooks; (3) graduation requirements; and (4) performance-based accreditation.

A Freeway School is required to provide the educational benefits in three areas: attendance, assessment, and graduation.

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<sup>1</sup> Ind. Code § 20-26-15-6.

<sup>2</sup> Ind. Code § 20-26-15-4(a)(1).

<sup>3</sup> Ind. Code § 20-26-15-7

<sup>4</sup> Ind. Code §§ 20-26-15-11 and -12.



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A Freeway School's average attendance rate must increase not less than two percent (2%) each school year until the average attendance rate is eighty-five percent (85%); and at least one percent (1%) each school year until the average attendance rate is ninety percent (90%).<sup>5</sup>

A Freeway School must show a successful completion rate of the assessment program by meeting essential standards under the ISTEP program or a locally adopted assessment program that increases not less than two percent (2%) each school year until the successful completion rate is not less than eighty-five percent (85%); and one percent (1%) each school year until the successful completion rate is not less than ninety percent (90%) of the students.<sup>6</sup>

Beginning with the class of students who expect to graduate four (4) years after a Freeway School is accredited, the Freeway School must demonstrate a graduation rate that increases not less than two percent (2%) each school year until the graduation rate is not less than eighty-five percent (85%); and one percent (1%) each school year until the graduation rate is ninety percent (90%).<sup>7</sup>

After a Freeway School has achieved the minimum attendance, assessment, and graduation rates required by law, it must either maintain the minimum required rates or show continued improvement of those rates.<sup>8</sup>

The contract for a nonpublic school to become an accredited Freeway School was drafted by SBOE attorneys in consultation with the Indiana Department of Education and stakeholder schools.

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<sup>5</sup> Ind. Code § 20-26-15-7(1).

<sup>6</sup> Ind. Code § 20-26-15-7(2).

<sup>7</sup> Ind. Code § 20-26-15-7(3).

<sup>8</sup> Ind. Code § 20-26-15-7.



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## Contract Between the State Board of Education and Nonpublic School To Become a Freeway School

This Contract (“this Contract”), entered into by and between the Indiana State Board of Education (the “State Board”) and \_\_\_\_\_, a nonpublic school (the “Freeway School”), is executed pursuant to the terms and conditions set forth herein. In consideration of those mutual undertakings and covenants, the parties agree as follows:

**1. Petition.** The petition to be a freeway school submitted by the Freeway School required by IC 20-26-15-13 (the “Petition”) is hereby incorporated in and made a part of this contract as Appendix A. At a minimum, the Petition must address the following:

- 1) The list of the statutes or rules from IC 20-26-15-5 that the governing body of the Freeway School has elected to have suspended.
- 2) A plan and a schedule for the Freeway School to achieve the minimum educational benefits required by IC 20-26-15-7 by the end of five (5) complete school years after the contract is signed. The schedule must show some percentage of improvement by the end of the second, third, and fourth complete school years after the contract is signed. The Freeway School must achieve these education benefits by the end of five complete school years after the contract is signed and maintain the educational benefits at the end of the sixth and any subsequent complete school year after the contract is signed.
- 3) A strategy, including curriculum in which character education is demonstrated to be a priority. The strategy must include the following subjects as integral parts of each school's character education: (A) hygiene; (B) alcohol and drugs; (C) diseases transmitted sexually or through drug use, including AIDS; (D) honesty; (E) respect; and (F) abstinence and restraint.
- 4) A plan under which the Freeway School will offer courses that will allow a student to become eligible to receive an academic honors diploma.
- 5) A plan under which the Freeway School will maintain a safe and disciplined learning environment for students and teachers.
- 6) How the school's curriculum will comply with the Indiana Academic Standards.
- 7) Confirmation of the school's commitment to Indiana's minimum 180 instructional days for students.
- 8) The Freeway School's ability to produce and submit all required electronic State student data reports.



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**2. Suspension of Statutes and Rules.** During the contract period, the observance of any statute or rule that the governing body has elected to have suspended as set forth in the Petition are suspended for the Freeway School.

**3. Permitted Actions.** During the contract period, the Freeway School may do the following:

- 1) Disregard the observance of any statute or rule that the governing body has elected to have suspended in the Petition, as set forth on Appendix A.
- 2) Establish a locally adopted assessment program to replace the assessment of students under the ISTEP program established under IC 20-32-5-15, subject to the following:
  - a. A locally adopted assessment program must be established by the governing body and approved by the department.
  - b. A locally adopted assessment program may use a locally developed test or a nationally developed test.
  - c. Results of assessments under a locally adopted assessment program are subject to the same reporting requirements as results under the ISTEP program.
  - d. Each student who completes a locally adopted assessment program and the student's parent have the same rights to inspection and rescoring as set forth in IC 20-32-5-9.

**4. Consideration.** In exchange for accreditation by the State Board as a freeway school under IC 20-26-15, and the waivers and privileges described in sections 2 and 3 of this contract, the Freeway School agrees to comply with all applicable provisions of IC 20-26-15 and the terms of the contract.

**5. Term and Termination.** This period during which this Contract shall be effective shall be governed by IC 20-26-15-11 and IC 20-26-15-12.

**6. Annual Monitoring.** The Freeway School agrees to comply with the annual monitoring of contract compliance required by IC 20-26-15-10. The Freeway School shall maintain all books, documents, papers, and other evidence pertaining to its performance under this Contract and shall make such materials available at their respective offices for inspection by the State Board or its authorized designees.

**7. Assignment; Successors.** This Contract shall not be assigned.

**8. Authority to Bind Freeway School.** The signatory for the Freeway School represents that he/she has been duly authorized to execute this Contract on behalf of the Freeway School and has obtained all necessary or applicable approvals to make this Contract fully binding upon the Freeway School when his/her signature is affixed, and accepted by the State Board.

**9. Amendment to Contract.** This Contract may only be amended, supplemented or modified by a written document executed pursuant to IC 20-26-15-9.

**10. Compliance with Laws.**

A. The Freeway School shall comply with all applicable federal, state, and local laws, rules, regulations, and ordinances, and all provisions required thereby to be included herein are hereby incorporated by reference. The enactment or modification of any applicable state or federal statute or the promulgation of



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rules or regulations thereunder after execution of this Contract shall be reviewed by the State Board and the Freeway School to determine whether the provisions of this Contract require formal modification.

B. The Freeway School certifies by entering into this Contract that neither it nor its principal(s) is presently in arrears in payment of taxes, permit fees or other statutory, regulatory or judicially required payments to the State of Indiana.

C. The Freeway School warrants that the Freeway School and its employees, shall obtain and maintain all required permits, licenses, registrations, and approvals that apply to nonpublic schools, and shall comply with all health, safety, and environmental statutes, rules, or regulations. Failure to do so may be deemed a material breach of this Contract and grounds for immediate termination.

D. The Freeway School shall locate its school in a facility that complies with the health, sanitation, and safety requirements of Indiana Code Chapter 16-14-21

F. To the extent that the Freeway School does not establish a locally adopted assessment program under Paragraph 3.2) of this Contract, the Freeway School shall

- (i) administer all state tests for accountability applicable to each grade served as required by Indiana law during the established assessment windows;
- (ii) comply with the Department's Code of Ethical Practices and Procedures, and the Indiana Testing Security and Integrity Agreement;
- (iii) assign and use student identification numbers in administering state assessments and in meeting other Indiana data reporting requirements;
- (iv) follow procedures established by the Board and the Department for issuance and record-keeping concerning student information numbers; and maintain all student records, including enrollment information on a system that complies with the access and confidentiality requirements of state and federal law.

**12. Confidentiality of Information.** The parties acknowledge that the services to be performed by Freeway School may require or allow access to data, materials, and information containing Social Security numbers maintained by the State in its computer system or other records. In addition to the covenant made above in this section and pursuant to 10 IAC 5-3-1(4), the Freeway School and the State Board agree to comply with the provisions of IC 4-1-10 and IC 4-1-11. If any Social Security number(s) is/are disclosed by Freeway School, the Freeway School agrees to pay the cost of the notice of disclosure of a breach of the security of the system in addition to any other claims and expenses for which it is liable under the terms of this contract.

**13. Governing Law.** This Contract shall be governed, construed, and enforced in accordance with the laws of the State of Indiana, without regard to its conflict of laws rules. Suit, if any, must be brought in the State of Indiana.

**14. Indemnification.** The Freeway School agrees to indemnify, defend, and hold harmless the State Board, the state superintendent and the Indiana Department of Education, their agents, officials, and employees from all claims and suits including court costs, attorney's fees, and other expenses caused by



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any act or omission of the Freeway School and/or its principals or employees, in the performance of this Contract. The State Board shall not provide such indemnification to the Freeway School.

**15. Merger & Modification.** This Contract, including the Petition attached hereto as Appendix A, constitutes the entire agreement between the parties. No understandings, agreements, or representations, oral or written, not specified within this Contract will be valid provisions of this Contract. This Contract may not be modified, supplemented, or amended, except by written agreement signed by all necessary parties and in accordance with IC 20-26-15.

**16. Notice to Parties.** Whenever any notice, statement or other communication is required under this Contract, it shall be sent by first class mail or via an established courier / delivery service to the following addresses, unless otherwise specifically advised.

A. Notices to the State Board shall be sent to:

State Superintendent of Public Instruction

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B. Notices to the Freeway School shall be sent to:

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**17. Public Record.** The Freeway School acknowledges that the State Board will not treat this Contract as containing confidential information, and will post this Contract on its website. Use by the public of the information contained in this Contract shall not be considered an act of the State Board.

**18. Severability.** The invalidity of any section, subsection, clause or provision of this Contract shall not affect the validity of the remaining sections, subsections, clauses or provisions of this Contract.

**19. Substantial Performance.** This Contract shall be deemed to be substantially performed only when fully performed according to its terms and conditions and any written amendments or supplements.

## Non-Collusion and Acceptance

The undersigned attests, subject to the penalties for perjury, that the undersigned is the Freeway School, or that the undersigned is the properly authorized representative, agent, member or officer of the Freeway School. Further, to the undersigned's knowledge, neither the undersigned nor any other member, employee, representative, agent or officer of the Freeway School, directly or indirectly, has entered into or been offered any consideration for the execution of this Contract other than that which appears upon the face hereof.

**In Witness Whereof,** Freeway School and the State have, through their duly authorized representatives, entered into this Contract. The parties, having read and understood the foregoing terms of this Contract, do by their respective signatures dated below agree to the terms thereof.



# INDIANA STATE BOARD OF EDUCATION

FREEWAY SCHOOL

STATE BOARD OF EDUCATION

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



# INDIANA STATE BOARD OF EDUCATION

**Appendix A**

**Petition**



# INDIANA STATE BOARD OF EDUCATION

**MARCH 12, 2015**

## **Resolution Regarding Contract Between the State Board of Education and Nonpublic School To Become a Freeway School**

*Resolved*, That the draft Contract Between the State Board of Education and Nonpublic School To Become a Freeway School be adopted as the official contract to be used by the State Board of Education (“Board”) and nonpublic school applicants for Freeway School accreditation;

*Resolved*, That the Department of Education (“Department”) will collaborate with Board staff to provide the following services to nonpublic schools wishing to become accredited as Freeway Schools:

- a. Develop information material;
- b. Consultation;
- c. Receive initial petitions from nonpublic schools for accreditation as a Freeway Schools;
- d. Review petitions and forward recommendations to Board staff in a timely manner;

*Resolved*, That the Board, based upon Board staff recommendations pursuant to a review of Department recommendations, shall approve such recommendations by a majority of the quorum present unless good cause be shown as to why accreditation should be denied; and

*Resolved*, That Board staff shall collaborate with Department staff and interested stakeholders to develop an efficient and reasonable process for ongoing review and granting of Freeway School petitions for Freeway School accreditation by nonpublic schools.

ADOPTED ON: MARCH 12, 2015