

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 6.0 Updated July 2026





Student and Parent Rights

Preamble

Dear Indiana Parent,

Thank you for all you do to raise and protect your children. “We the Parents” are primarily responsible for what our children learn and how they learn it. 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. To that end, the Office of the Attorney General (OAG) published the Parents’ Bill of Rights to provide parents with 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. [Volume I](#) outlines parents’ rights in school governance, curricula and standards, and civil rights complaints. [Volume II](#) details parents’ rights in making medical decisions for their children. [Volume III](#) explains parents’ rights to educate their children in one of Indiana’s many public or private school choice options. [Volume IV](#), the most recent edition, empowers parents to understand their children’s right to practice their faith freely at school. Many think our elementary and secondary schools are “religion-free” zones, but religious freedom does not end at the school doors. Both state and federal laws protect religious freedom in public schools, with the First Amendment to the United States Constitution providing, in part, that “Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech.” Each volume is updated to reflect legislative changes through the 2026 session of the Indiana General Assembly.

The Parents’ Bill of Rights is available on our website and may be downloaded either in its entirety or by individual volume. If the OAG can provide further information on these rights, please call (317) 232-6201 or visit www.in.gov/attorneygeneral/. Additionally, please follow @AGToddRokita on Twitter to receive Parents’ Bill of Rights alerts on education matters and developments important to your child’s education.

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 educational and 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.



Parent Education Bill of Rights

13.

You have the right to receive notice from your child's school if he or she is bullied.

14.

You have the right to determine which educational pathway your child pursues for high school graduation.

15.

You have the right to know what books are available to students in the school library and to request the removal of books that are obscene or include material harmful to minors.

16.

You have the right to be notified if your child requests to be addressed by a name or use the pronouns of the opposite sex.

17.

You have the right to defend your child's First Amendment rights to religious expression and free speech in a school environment.



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PARENTAL RIGHTS & CURRICULUM

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 I





Questions and Answers

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Volume I: Parental Rights Pertaining to Curriculum

Adoption and Establishment of Standards and Curricula

Q: What is the difference between academic standards and curricula?

A: Generally, academic standards reflect benchmarks for what students should learn at each grade level. Standards are used as the basis for curricula, but they are not curricula. Rather, curricula include textbooks, digital content, and materials selected by a school district and adopted by a local school board. Importantly, curricula adopted by the local school board must align with the Indiana Academic Standards adopted by the Indiana State Board of Education ("SBOE").

[Ind. Code § 20-26-12-24.](#)

Q: How are Indiana Academic Standards and curricula established?

A: The Indiana Constitution provides that the Indiana General Assembly establishes the education policies for the State of Indiana and delegates duties to the SBOE to establish policies and procedures in the matter set forth by statute. [Ind. Code § 20-18-3-1.](#) [Indiana Code ch. 20-30-5](#) sets forth the academic subjects and courses that schools must teach. The Indiana Department of Education ("IDOE") is responsible for developing standards for these courses and subjects under [Indiana Code § 20-31-3-2.](#) SBOE formally adopts the standards developed by IDOE. [Ind. Code § 20-19-2-14.5\(b\).](#) School boards are authorized to select a curriculum for each course, which must be consistent with the academic standards adopted by SBOE. [Ind. Code § 20-31-3-6.](#) It is important to note that neither SBOE nor IDOE has the authority to unilaterally create courses, develop standards, or set policies inconsistent with Indiana law. Because state law places educational affairs under the authority of the governing body, requires the governing body to adopt curricular materials, and mandates certain instructional content, teachers and administrators lack independent authority to substitute a curriculum that has not been approved by the governing body or that is inconsistent with state law.

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 curricula align with state law and meet state standards. [Indiana Code § 20-26-5-4](#) states that the school board shall "take charge of, manage, and



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conduct the educational affairs for the school corporation.” Thus, local school boards are widely regarded as the principal body capable of representing citizens in local educational decisions, including adopting curricula. School boards have a duty to make decisions about what educational content is included in curricula and what is left out. It is of extreme importance for parents to voice their concerns to the school board when curricula deviate from approved academic standards.

Q: Can Indiana Academic Standards be changed?

A: Yes. Indiana’s academic standards are developed over time through IDOE standards revision committees. Pursuant to [Indiana 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. The law also specifies that members appointed to an academic standards committee must be racially and geographically diverse. [Ind. Code § 20-31-3-4](#).

Under Indiana law, parents do not have a right to individual notice of these adoption meetings and committees. Still, parents 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 ensure oversight in reviewing standards. In addition, parents can be appointed to committees and provide input regarding how a particular standard may affect curricula related to controversial theories, social advocacy groups, and political topics. **The Indiana General Assembly has oversight of IDOE proceedings and the authority to change them. If parents find IDOE unresponsive or its processes unworkable, they should contact their elected legislators sitting on the Indiana House and Senate education committees to demand a more open, collaborative process for developing academic standards.**

Q: Can parents impact academic standards and content?

A: Yes. The standards revision process should be a collaborative one. As such, parents interested in serving on IDOE committees should contact IDOE via its website. Parents should maintain a record of the date of contact, whether a response was received, the date on which a reply was received, and, if participation was denied, the reason given. Parents may also comment on academic standards and curricula by commenting at school board meetings during public



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comment periods, expressing concerns to school officials, contacting IDOE, and calling their local legislators. Intrinsic to the legislature's duty to enact mandatory and optional curricula studies is a duty to review and refine those standards, as well as to identify subject matter requiring prior consent for a student's participation under [Indiana Code § 20-30-5-17\(c\)](#). Parents should review curricula adopted by local school boards and, if objectionable content is found, have the right to bring it to the attention of their legislators. The Indiana General Assembly has the authority to enact laws addressing the subjects, courses, and topics that students learn and do not learn at school. See "Additional Resources" for more details.

Q: How can parents hold their local school board accountable regarding curricula and content?

A: Contact your school board members directly and ask them their position 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 parents and attend school board meetings as a group to share unified concerns. For example, if your school board has publicly opposed Critical Race Theory ("CRT") and other controversial theories, continue to work with your school board to review curricula so that CRT teachings cannot be introduced or masked in other materials. Using the same example, be sure that your school board is not allowing CRT or similar Marxist ideology to be taught under another name. Parents should also continue to request copies of the curriculum and classroom content by contacting their child's teacher or school administration.

Q: Can I run for my local school board?

A: Yes. 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. The ability to run for the local school board depends on the 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 ch. 20-23-4](#). 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 do so 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. At the discretion of school board candidates, their party affiliation may be displayed on the voting ballot. [Ind. Code § 20-23-4-29.1](#).



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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. 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 parents 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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Curriculum, Standards, and Required Instruction

Q: Does the Indiana Department of Education (IDOE) evaluate curricular materials?

A: Yes. Indiana law requires IDOE to evaluate, approve, and publish a list of “high-quality” Science, Technology, Engineering, and Math (STEM) and English language arts curricular materials which local governing boards may use on the following timelines:

- Not later than July 1, 2029, and every three (3) years thereafter, science.
- Not later than July 1, 2029, and every three (3) years thereafter, technology.
- Not later than July 1, 2029, and every three (3) years thereafter, engineering.
- Not later than July 1, 2027, and every three (3) years thereafter, math.
- Not later than July 1, 2028, and every three (3) years thereafter, English/language arts. [See Ind. Code § 20-20-5.5-2](#)

Q: What metrics does IDOE use to determine if STEM curriculum is “high-quality?”

A: IDOE identifies a “high-quality” STEM curriculum as one in which the publisher offers multiple student tests (formative, summative, etc.) and provides an assessment of student-level data on such tests (per a data-sharing agreement under [Indiana Code § 20-20-5.5-2\(e\)](#)), alignment to Indiana standards, the inclusion of “experiential learning opportunities,” and the age appropriateness of the content. [Ind. Code § 20-20.5-4-1](#). “Experiential learning opportunities” are not defined within Indiana Code, but are generally understood within the teaching profession to include learning through experiences, such as projects or group activities, rather than teachers providing direct instruction to students.

Q: Are schools required to use specific instructional methods in math?

A: In some math courses, Indiana law requires schools to use a specific method of instruction. Core 40 math curricula in Algebra I, Algebra II, and Geometry courses must include “real-world applications” and “project-based and inquiry-based learning,” and schools must implement these courses by the 2025-2026 school year. [Ind. Code § 20-30-10-2.7](#). These instructional terms are not statutorily defined, but they are understood within the teaching profession to include student-directed learning, rather than direct instruction provided by the teacher.



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Q: Are schools required to teach a specific curriculum in reading?

A: Yes. Literacy curricula used by schools must align to the “Science of Reading” standards. [Ind. Code § 20-26-12-24.5](#). The “Science of Reading” is statutorily defined to mean “the explicit, systematic inclusion of... phonemic awareness, phonics, fluency, vocabulary, [and] comprehension” that is “supported by evidence” with a “demonstrated record [that] leads to increased student competency.” [Ind. Code § 20-18-2-17.5](#). The “Three-cueing Model,” which is prohibited, refers to the model of reading instruction that uses meaning drawn from the context, pictures, or syntax as the primary basis for teaching word recognition. [Ind. Code § 20-26-12-24.5](#).

Q: How can parents see the reading curriculum adopted by a school corporation?

A: Public school corporations, including charter schools, are required to annually report (by July 15) on their website the name and publisher of the adopted reading and writing curricula by grade level, as well as information regarding related remedial programs provided by the school. [Ind. Code § 20-26-5-44.2](#).

Q: Are students required to take a course on personal financial responsibility?

A: Yes. Starting with the class of 2028, all students attending public schools, including charter schools, and accredited nonpublic schools must take a personal financial responsibility course to graduate from high school. [Ind. Code § 20-30-5-19](#).



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Student Achievement, Graduation, and Accountability

Q: What are the current graduation requirements in Indiana?

A: Under Indiana's new graduation rule for students entering high school in 2025–26 and later, a student must earn 42 high school credits in the required subject areas (English, math, science, social studies, computer science, health, PE, career preparedness, and electives). In addition to these credits, a student must also demonstrate college or career readiness by completing a project-based, work-based, or service-based learning experience and at least one approved postsecondary readiness competency (such as meeting a college-ready SAT/ACT benchmark, earning a credential, completing a CTE concentrator, apprenticeship, qualifying coursework, military qualification, or a state-approved pathway).

In addition to the basic Indiana diploma, students may earn one or more Indiana Diploma Seals, which recognize preparation for college enrollment, employment, or military enlistment. The seals are recorded on the student's transcript.

The Indiana Diploma represents the minimum state graduation requirements. By itself, it does not include all of the coursework typically required for admission to Indiana's public universities. Students who plan to attend a four-year college should work closely with their school counselor to ensure they are meeting college admissions requirements. In most cases, pursuing the Enrollment Honors Seal is the best way to ensure a student completes the academic coursework expected by Indiana's public universities and is well-prepared for college admission and success.

Q: Can a student be forced to repeat grade three if they are not proficient in reading?

A: Yes. The law requires the reading assessment to be provided to students until they achieve a proficient score, or until the student enters 7th grade. [Ind. Code § 20-32-8.5-2\(a\)\(7\)](#). If a student in grade three fails to achieve a passing score on the reading assessment, including an opportunity to take the assessment during the summer, the student shall be retained in grade three for the subsequent school year. [Ind. Code § 20-32-8.5-2\(a\)\(2\)\(A\)](#). There are many exceptions to this law under [Indiana Code § 20-32-8.5-2\(c\)](#), and parents have a right to appeal the decision to retain their child under [Indiana Code § 20-32-8.5-2.5](#).



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Q: Are schools required to intervene if my child is not achieving grade-level proficiency in math?

A: Yes. Schools must provide notice to the parents of a student who is at risk of falling below grade-level standards in mathematics in kindergarten through 8th grade, as determined by the school, and provide additional supports to the student. [Ind. Code § 20-32-6.5-3\(a\)](#). The intervention is based on the student's individual needs and includes a multitiered system of support that progresses from less to more intensive support based on the child's needs. [Ind. Code § 20-32-6.5-3\(b\)\(1\)](#). The intervention is to be aligned with evidence-based instructional strategies to promote conceptual understanding, procedural fluency, and real-world problem solving. [Ind. Code § 20-32-6.5-3\(b\)\(4\)\(A\)](#).

Q: Are there additional requirements for schools that have a large percentage of students who are not proficient in reading?

A: Subject to available funding, schools averaging less than a 75% passing rate on the state reading evaluation over three consecutive years must participate in the Indiana literacy cadre. The Indiana literacy cadre is a professional development initiative for educators that is aligned with the science of reading. [Ind. Code § 20-32-8.5-5](#).

Q: Does IDOE or a school corporation determine the metrics used for evaluating teacher performance?

A: A school corporation establishes the metrics used for teacher annual performance evaluations and shall post the plan developed or adopted on the school corporation's website. [Ind. Code § 20-28-11.5-4](#). School corporations can cancel a teacher's contract for "repeated ineffective performance, among other offenses, as determined by the school corporation." [Ind. Code § 20-28-7.5-1](#).

Q: What metrics are used to determine the performance of schools?

A: Indiana's A–F accountability system measures school performance using a combination of academic proficiency and additional indicators established by the State Board of Education. For grades 3–8, the system considers statewide assessment results in reading and mathematics together with factors such as student growth, attendance, science and social studies achievement, and non-academic indicators. For high schools, performance is mostly based on diploma seal attainment, with graduation rates and SAT scores each accounting for 10% of the total score. While Indiana law requires academic proficiency to serve as the primary measure of school performance for elementary schools, the accountability system incorporates several non-proficiency indicators that materially determine a school's final grade. [Ind. Code § 20-31-8-11](#).



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Parental Consent and Opt-Out Rights

Q: Can a school require a student to answer personal surveys without parental consent?

A: No. Indiana law requires parental consent before a school may require a student to participate in a personal analysis, evaluation, or survey that is not directly related to academic instruction and that reveals or attempts to reveal a student's attitudes, habits, traits, opinions, beliefs, or feelings concerning sensitive topics, including, but not limited to, a student's views on human sexuality, religious practices, political affiliations, or mental or psychological conditions which may embarrass the student or the student's family. [Ind. Code § 20-30-5-17\(c\)](#).

A federal law, the Protection of Pupil Rights Amendment (PPRA), 20 U.S.C. § 1232h, contains similar protections regarding personal surveys. The PPRA is enforced by the United States Department of Education, Student Privacy Policy Office. Prompted by a lawsuit filed in 2022 by America First Legal, the Department of Education determined that a New Jersey school district violated the PPRA by surveying students about their religious affiliation, income, and other sensitive topics, without providing parents with adequate notice and/or a meaningful opportunity for their child to opt out of the survey.

PPRA also requires schools to provide advance notice and an opportunity to opt out of school activities involving the collection, disclosure, or other use of a student's personal information for marketing and sales purposes.

As a final note, this law also requires schools to allow parents to inspect, upon request, any instructional material, excluding tests and academic assessments. Additional information regarding PPRA is available on the U.S. Department of Education's Student Privacy Policy Office website, at <https://studentprivacy.ed.gov/>. A parent who believes that their school has violated the PPRA may file a complaint with the Student Privacy Policy Office. The complaint form is found at <https://studentprivacy.ed.gov/file-a-complaint>.

Parents should be especially vigilant regarding their school's use of surveys created by third-party vendors. Under [Indiana Code § 20-26-21-4](#), if a personal survey is provided by a third-party vendor rather than by the school corporation, parental consent must be requested, but it may be given to the student if the parent does not opt their child out of the



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survey. Neither the school nor the third-party vendor may record, collect, or maintain the responses to or results of a third-party analysis, evaluation, or survey in a manner that would identify an individual student's responses or results. [Ind. Code § 20-26-21-3](#). By law, each school must establish and maintain a grievance procedure for a parent who believes that their child's school has failed to meet its notice and consent obligations regarding these third-party surveys. [Ind. Code § 20-26-21-6](#).

Q: Can my child be required to engage in political activism and lobbying as part of their coursework?

A: Yes, under Indiana law, a student may be required, as part of the student's coursework, to engage in political activism and lobbying. This includes activities that require "the student to adopt, affirm, affiliate, or take any action" that would result in favoring a specific position, but only if the school offers an "alternative option" that allows for the favoring of an "alternative position." [Ind. Code § 20-33-1.5-3](#). The law does not define an "alternative option" or "alternative position." Thus, the law does not explicitly require that schools offer a student an "alternative option" that aligns with the student's personal beliefs or views. However, if a teacher compels a student to adopt a position that conflicts with the student's personal beliefs, it would likely violate the student's First Amendment rights. (See Volume IV for more information on a student's First Amendment rights.)

Q: Can parents opt their children out of certain curricula?

A: Yes, in limited cases. Parents cannot opt out of the mandatory curricula found in [Indiana Code ch. 20-30-5](#). The mandatory curricula referenced in this code include courses and classes such as mathematics, science, government, English, history, and others. It also includes instruction on good citizenship, morals, bullying prevention, the Holocaust, Human Immunodeficiency Virus, safety, organ donation, and other topics.

Human sexuality instruction is prohibited in pre-kindergarten through grade three under [Indiana Code § 20-30-17-2](#), and parents with students in grades four through twelve can opt their children out of instruction on human sexuality. [Ind. Code § 20-30-5-17\(d\)](#). State law also allows parents to opt their student out of personal analysis surveys that are not part of academic instruction. [Ind. Code § 20-26-21-4](#).



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School corporation powers (governed by local school boards) are broad and expansive, in part because each school corporation is unique in its demographics and the populations it serves. As a result, school boards could provide additional opt-out provisions for locally adopted curricula to meet the needs of the populations they serve. [Ind. Code § 20-26-3-3\(b\)](#).

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

A: Yes. Human sexuality instruction is permitted in grades 4-12. However, human sexuality instruction is prohibited in pre-kindergarten through grade three. [Ind. Code § 20-30-17-2](#).

Pursuant to Indiana law, human sexuality instruction is limited to teaching abstinence-based instruction. Instruction on human sexuality or sexually transmitted infections 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 infections, and other associated health problems. By law, school instruction will also include the best ways to avoid sexually transmitted infections and other associated health problems by establishing a mutually faithful monogamous relationship in the context of marriage. Instruction on human sexuality and sexually transmitted infections also includes age-appropriate instruction concerning the importance of consent to sexual activity between two people. School instruction is also required to include an in-person presentation on human growth and development during pregnancy that is medically accurate and age-appropriate. The presentation must include a three-minute ultrasound video showing the development of the brain, heart, sex organs, and other vital organs in early fetal development. The presentation also includes a computer-generated animation showing the process of fertilization and each stage of fetal development inside the uterus, noting significant markers in cell growth and organ development for every week of pregnancy from fertilization to birth. [Ind. Code § 20-30-5-13](#).



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Q: Can a public school employee or staff member answer a student's question about human sexuality if the student is in pre-kindergarten through grade three?

A: Yes. Despite a restriction on providing human sexuality instruction to students in pre-kindergarten through grade three, a school employee may answer an individual student's question about human sexuality. [Ind. Code § 20-30-17-4](#).

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 for instruction. [Ind. Code § 20-30-5-17\(d\)](#). The parental consent form must include an accurate summary of the contents and nature of the instruction on human sexuality, whether the instruction will be taught to male and female students together or separately, whether the instruction will be provided by a female or male instructor and a statement that a parent of a student has the right to review and inspect all materials related to 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 by returning the notice and marking that their child shall not receive it. [Ind. Code § 20-30-5-17\(d\)-\(e\)](#). **Parents have the right to petition the Indiana General Assembly to amend this statute to require that the parents must opt-in to certain instruction on human sexuality, rather than putting the onus on parents to opt out.**

Q: Does Indiana law require parental consent for certain social media accounts used by minors?

A: Yes. Indiana law requires certain social media companies to obtain verifiable parental consent before allowing a child under sixteen (16) years of age to create or maintain a social media account. [Ind. Code art. 24-16](#). Parents also have the right to request the deletion of a child's account. The law applies only to social media platforms covered by the statute and does not prohibit parents from authorizing their child to use social media. Parents should be aware that these protections apply to social media platforms and do not necessarily apply to online learning platforms, school websites, or educational applications used by schools. If a parent believes a social media company has violated these requirements, they should contact the Indiana Attorney General, who may investigate violations and enforce the law.



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Controversial Instruction, Ideologies, and Student Rights

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

A: 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. However, CRT, the 1619 Project, and similar concepts and lesson plans are deeply flawed 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 such 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’s narrative. CRT 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: Can a school teach a curriculum aligned to CRT or similar instruction in Indiana schools?

A: Yes. There is no explicit prohibition in Indiana law preventing a school corporation or local school board from adopting curriculum materials that incorporate concepts associated with Critical Race Theory (CRT) or similar ideologies. The primary legal constraint on curriculum is that it must be consistent with Indiana law and aligned with Indiana’s academic standards.



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However, schools remain subject to federal and state constitutional and civil rights protections. Public schools may not discriminate against students on the basis of race or otherwise deprive students of their constitutional rights. To the extent a curriculum is implemented in a manner that treats students differently because of their race, compels students to affirm particular ideological viewpoints, or penalizes students for expressing protected views, such practices could raise concerns under federal and state law regardless of whether the curriculum itself is permissible.

The Indiana State Board of Education revised Indiana's academic standards for social studies in 2026. Those revisions removed many of the specific historical examples and content references contained in prior standards. This allows schools and curriculum developers greater discretion in how to interpret the standards and, thus, how certain topics are taught. As a result, whether a particular curriculum is permissible under Indiana law will often depend less on the ideology it includes and more on whether its content can be shown to align with Indiana's academic standards and is implemented in a manner consistent with students' constitutional and civil rights.

If parents want schools to select curricula that teach a traditional, historically accurate version of American history and government, they have the right to petition the Indiana General Assembly to prohibit schools from including CRT and similar ideologies in the curricula. They also have the right to petition the Indiana General Assembly to require that the Indiana State Board of Education adopt new academic standards similar to those modeled by the Civics Alliance's *American Birthright: The Civics Alliance's Model K-12 Social Studies Standards*.

Q: What are Social Emotional Learning competencies?

A: Social Emotional Learning ("SEL") is generally defined 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. SEL competencies focus on core standards to foster the development of the following attitudes and skills: Collaboration, Connection, Critical Thinking, Mindset, Insight, Regulation and Sensory and Motor Integration.



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Q: Is SEL mandatory in Indiana schools?

A: There is no provision in Indiana law explicitly mandating SEL competencies in Indiana classrooms. However, under [Indiana Code § 20-30-5-14](#), each school must incorporate interdisciplinary “Employability Standards” developed by IDOE into the school’s curriculum for grades one through twelve. These standards are in addition to the required academic standards developed by IDOE pursuant to [Indiana Code § 20-31-3-2](#). IDOE worked with the Department of Workforce Development to draft the Employability Standards, and the SBOE adopted them. [Ind. Code § 20-30-5-14\(c\)](#).

IDOE included many SEL-type competencies in the Indiana Employability Skills Standards, which are mandatory. This created a backdoor for IDOE to require schools to teach these SEL competencies as part of the state’s adopted standards. The Employability Standards include Perseverance (overcoming obstacles and challenges); Adaptability (shifting one’s priorities by modifying one’s actions in light of shifting tasks); Integrity (acting in a trustworthy manner); Communication (using context-relevant strategies when interacting with others); and Collaboration (working with others cooperatively to achieve collective goals). In sum, SEL competencies are not part of the Indiana Academic Standards. However, many of these competencies have been approved by SBOE to meet Indiana’s Employability Skills Standards, which are required to be included in a school’s curriculum.

If parents don’t want Indiana’s academic standards or the Employability Skills Standards to include SEL, they have the right to petition the Indiana General Assembly to prohibit IDOE from adopting SEL practices as a means of meeting these standards. Additionally, a model set of employability standards and curricula free of SEL practices could be inserted verbatim into [Indiana Code § 20-30-5-14\(c\)](#).

Q: Can a teacher subject my child to propaganda from political groups, such as Black Lives Matter?

A: No, the Attorney General issued an advisory opinion in 2022 finding 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 students’ First Amendment



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protections. 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. (See the section titled "Parent Participation, Procedural Rights, and Remedies" for more information on how to file a civil rights complaint.)

Q: How can parents protect their child's free speech rights in school?

A: In addition to protections afforded under the federal Constitution, the Indiana General Assembly 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.

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 about 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.



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Access to Public Records and Public Participation

Q: How can parents obtain a copy of their child's curricula?

A: Generally, school curricula can be requested through your child's school district. School officials should provide you with a copy of approved curricula and address any concerns. Public school corporations, including charter schools, are required to annually report on their website the name and publisher of the adopted reading and writing curricula by grade level, as well as information regarding related remedial programs provided by the school. [Ind. Code § 20-26-5-44.2](#).

Indiana's Access to Public Records Act ("APRA"), [Indiana Code ch. 5-14-3](#), 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." However, some public records may not be disclosed under various exemptions or may be disclosed at the discretion of the school. 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 "non-disclosable." You have the right to view and copy all disclosable records.

Q: How else can parents inquire about the curricula taught to their child?

A: Parents may provide comments and express concerns regarding curricula 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 [Indiana 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.

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.

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.



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Q: How can parents see the books offered in their child's school library?

A: Indiana law requires a school board to develop a procedure for schools to catalog material "in the school library" and post the catalog on the school's website. [Ind. Code § 20-26-5.5-2](#).

Q: What recourse do parents have if the school offers books that contain obscene content or material harmful to minors in the school library?

A: Indiana law requires schools to establish procedures allowing parents, guardians, and community members to request removal of material that is obscene (as defined in [Ind. Code § 35-49-2-1](#)) or harmful to minors (as defined in [Ind. Code § 35-49-2-2](#)), including response and appeal procedures. The response and appeal procedures must require the governing body to review the request at the next public meeting. [Ind. Code § 20-26-5.5-1](#).

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 Indiana General Assembly 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 Indiana General Assembly 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 and no. Indiana law requires local school boards to allow public comment periods at school board meetings. [Ind. Code ch. 5-14-1.5](#). However, current law provides no requirement that board members respond to the public comments received.

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 the opportunity to participate, including 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 § 5-14-1.5-3.2](#). 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.

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.



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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 or from commenting on social media. Blocking parents from social media violates the First Amendment 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 Complaints, Civil Rights, and Legal Remedies

Q: What if parents have a complaint about a teacher at their child's school?

A: Parents or community members having questions, concerns, or complaints about any aspect of the operation of a school corporation may contact the person having knowledge or responsibility for a particular situation. This would be the teacher first, then, in most cases, the school administrator closest to the situation.

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

Written complaints regarding teacher conduct and educator licensing can also be made to IDOE. IDOE has not adopted a formalized complaint process. **If parents desire a process to register complaints against licensed teachers administered by an entity independent of IDOE, they have the right to petition the Indiana General Assembly to create it.**

Q: What is Title VI of the Civil Rights Act, and how 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. 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.



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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 provides a private right of action for discrimination, under which a complainant may seek monetary damages in court.

Title VI also prohibits discrimination in admissions and access to educational programs. Students must be afforded equal opportunities regardless of race, color, or national origin. Admissions policies or practices that intentionally discriminate on those bases likely violate Title VI.

Complaints alleging violations of Title VI may be investigated by the U.S. Department of Education's Office for Civil Rights ("OCR"), which reviews the allegations, gathers information from the parties involved, and determines whether the recipient of federal funds violated Title VI.

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.



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Common OCR complaints of federal law relate to:

- discrimination on the basis of race, color, and national origin as prohibited by Title VI of the Civil Rights Act of 1964;
- discrimination on the basis of sex as prohibited by Title IX of the Education Amendments of 1972; and
- 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.

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 the 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 parents 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.



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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\(l\)](#) and [Ind. Code § 22-9-1-6](#).

Q: How can parents 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](#). 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.



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Q: What if parents believe their child or they themselves 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 or retaliating 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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Student Safety, Discipline, and Employee Misconduct

Q: Can a school discipline a student for conduct that a parent permits?

A: Yes. Indiana law generally provides that a school corporation has the duty and power to supervise student conduct in “carrying out school purposes” and “the right to take any disciplinary action necessary to promote student conduct that conforms with an orderly and effective education system.” As long as the disciplinary action is “taken in good faith and is reasonable,” the school corporation has qualified immunity. Individual teachers and school staff “may take any action that is reasonably necessary to carry out or to prevent an interference with an educational function” for students under their charge. [Ind. Code ch. 20-33-8-8](#).

Q: Can a student be disciplined for violating dress code policies?

A: Yes. Indiana law allows a school corporation to adopt a policy concerning student dress code or disruptive behavior and provides teachers with qualified immunity with respect to disciplinary action taken for violations. [Ind. Code § 20-33-8-8\(d\)](#).

Q: Can a school discipline my child for using a cell phone at school?

A: Yes. Indiana law requires public schools and charter schools to adopt policies that generally prohibit students from using or possessing wireless communication devices during the school day. Schools must implement either a no-device policy or a secure-storage policy, subject to exceptions for emergencies, health needs, disabilities, and other circumstances authorized by law. [Ind. Code § 20-26-5-40.7](#).

Q: Are schools responsible for informing parents that their child was bullied at school?

A: Yes. Indiana law requires schools to notify the parents of both the targeted student and the alleged perpetrator before the end of the next school day following the conclusion of an investigation of the bullying incident by the school. The school must also make a reasonable attempt to notify both parents that the school is investigating a possible incident of bullying or similar misconduct before the end of the next school day after the school becomes aware of the incident. [Ind. Code § 20-33-8-13.5](#). Indiana law also requires that public schools “document acts of bullying and abusive behaviors” against a victim. [Ind. Code § 20-33-8-35](#).



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Q: If a child is absent from school for an extended period of time, will the school consider the student a “habitual truant?”

A: A student is a “habitual truant” if they are absent ten days or more within a school year without an excused absence or without an absence filed under a parental request with the school. [Ind. Code § 20-18-2-6.5](#).

[Indiana Code § 20-33-2-26](#) specifies that superintendents, attendance officers, and others have a duty to complete an affidavit declaring a student a “habitual truant” and submit the affidavit to the prosecuting attorney in the county with jurisdiction over the area in which the child resides. Before the prosecuting attorney files an affidavit, the prosecuting attorney may conduct a meeting with the child, the child’s parent, school officials, or any relevant service providers and make reasonable efforts to secure appropriate support services for the child and the child’s family for the purpose of addressing the root cause of the truancy. Upon the completion of an intervention plan and meeting, the prosecuting attorney shall provide written notice to the child’s parent summarizing the outcome of the meeting, services or other resources offered, and conditions for avoiding prosecution, if applicable.

The law also requires public and charter schools with students in grades kindergarten through twelve to adopt a “truancy prevention policy” for “absent students,” defined as a student absent from school for five days within ten weeks without being excused. [Ind. Code § 20-33-2.5-1](#). The truancy policy must provide for notice to parents. The required notice must inform a parent that their child is an “absent student” and that the parent is responsible for ensuring that the student complies with compulsory attendance laws. The notice shall also inform the parent that the school will initiate truancy prevention measures regarding the “absent student” and that the parent must attend a meeting with the school to review these measures. [Ind. Code § 20-33-2.5-4](#).

Q: Can a school hire an individual who has been convicted of a crime?

A: Yes. Indiana law prohibits public, charter, and state-accredited private schools from hiring (and requires them to fire) an employee or contractor “convicted” of certain criminal offenses, including, among other offenses, murder, causing suicide, assisting suicide, voluntary manslaughter, aggravated battery, kidnapping, a sex offense, arson, neglect of a dependent as a Class B felony, child selling, and an offense relating to material or a performance that is harmful to



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minors or obscene under [Indiana Code ch. 35-49-3](#). [Ind. Code § 20-26-5-11.2\(b\)](#). However, the law allows a school to hire individuals convicted of other serious crimes if the majority of the local school board approves the hire, including, but not limited to, an offense relating to operating a motor vehicle while intoxicated, reckless homicide, battery, domestic battery, criminal confinement, contributing to the delinquency of a minor, an offense involving a weapon, and an offense relating to controlled substances (excludes a marijuana offense). [Ind. Code § 20-26-5-11.2\(c\)](#).

Indiana law also requires the majority of the local school board to approve the hiring of an individual who was not criminally convicted of certain acts but entered into a civil agreement to settle an allegation of “misconduct” related to the health, safety, or well-being of a student. [Ind. Code § 20-26-5-11.2\(h\)](#). The law defines “misconduct” to include, among other acts, sexual advances or requests for sexual favors; sexual or oral intercourse; displaying or transmitting pornographic or sexually explicit materials; physical exposure of a sexual nature. [Ind. Code § 20-26-5-11.2\(i\)](#). **If parents want a policy that prohibits the hiring of employees with past misconduct, regardless of a school board’s vote, they should petition the Indiana General Assembly to do so by statute.**

Q: Is a school required to disclose that a teacher was involved in criminal or other acts that could affect the safety of students when such information is requested by another school as part of an employment reference?

A: Yes. A school corporation, charter school, or state-accredited nonpublic school is required to disclose (despite the existence of a confidentiality agreement executed after June 30, 2023) to a school requesting an employment reference any incident known by the school in which the employee was arrested, charged with a criminal offense, convicted of a criminal offense, is under court supervision, the subject of a protection order, or named as a defendant in a civil action if the civil action could affect the safety of students. [Ind. Code § 20-26-5-11.5\(c\)](#).



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Q: What duty does a school have to report information regarding a school employee involvement in criminal activity during their employment?

A: The superintendent of a school corporation must inform all school board members within five days of receiving information that certain possible criminal activity by school personnel was committed on school grounds (or with a current or former student) or concluding personnel matter investigations that could or have resulted in suspension or termination. [Ind. Code § 20-26-5-42.3](#). Additionally, the superintendent must report to the school board any matters involving legal expenses to the school corporation over a certain amount. [Ind. Code § 20-26-5-44](#).

Importantly, any school employee aware of any criminal activity in which there is reason to believe that a child is a victim of child abuse or neglect must make a report to the Department of Child Services or local law enforcement as required under [Indiana Code § 31-33-5-1](#).

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: Parental Medical Rights

Parent Authority Over Medical Decisions

Q: Who has the authority to make medical decisions on behalf of 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 certain life-threatening situations. The Fourteenth Amendment provides a parent or legal guardian with the right to make decisions regarding the minor child's care, custody, and control. In Indiana, an individual does not become an adult until they are 18 years old. [Ind. Code § 1-1-4-5\(a\)\(1\)](#). When treating a minor, consent must be obtained from the child's parent or legal guardian before the child receives medical or mental health treatment.

Q: Can an adolescent consent to health care services without parental consent?

A: There are instances where Indiana law permits minors to consent to their own health care, but these are very narrow exceptions. The exceptions to parental consent for health care include if the minor is emancipated; is or has been married; is in the United States military; is at least fourteen years old; not dependent on a parent or guardian for support, living apart from the minor's parents or individual in loco parentis and managing their own affairs; or is authorized to consent to health care by specific statute. [Ind. Code § 16-36-1-3](#). By statute, a minor who is at least sixteen years old and pregnant, in labor, or up to sixty days postpartum may consent to her own "medical or hospital care and treatment with respect to the pregnancy, delivery, and postpartum care of the minor." [Ind. Code § 16-36-1-3.5](#). However, the statute requires the provider to attempt to contact the minor's parent or guardian prior to treatment. Other state statutes that allow for a minor to consent to their own health care include substance abuse treatment ([Ind. Code § 12-23-12-1](#)), HIV testing ([Ind. Code § 16-41-6-1](#)), STI treatment ([Ind. Code § 16-36-1-3\(d\)](#)), and forensic services for rape, incest, and sexual abuse ([Ind. Code §§ 16-21-8-1](#), and [-3](#)).



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Q: When can the State challenge a parent’s authority to make medical decisions for their children?

A: Parents generally have the right to direct the medical care of their children. However, parental authority may be challenged by the State when a parent’s failure to provide necessary care seriously endangers a child’s physical or mental health. In those circumstances, the Department of Child Services may initiate Child in Need of Services (“CHINS”) proceedings in juvenile court when a parent, guardian, or custodian is unable, refuses, or neglects to provide necessary care. In emergency situations, a child may be taken into custody before a court order is obtained, but the court must promptly review the child’s removal and determine whether continued State intervention is warranted. [Ind. Code §§ 31-34-1](#); [31-34-2](#); and [31-34-5](#).

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

A: A school may appoint a physician or nurse who is registered to practice in Indiana with the responsibility of providing emergency care for students when an illness or accident occurs. This medical care may be provided during school hours on or near school property. [Ind. Code § 20-34-3-6](#). 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.



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Gender Dysphoria and Gender-Related Issues

Q: Is gender dysphoria a mental disorder?

A: Yes. The American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM 5) classifies gender dysphoria as a mental disorder in which there is a "marked incongruence between their experienced or expressed gender and the one they were assigned at birth," which is "associated with clinically significant distress or impairment in social, occupational, or other important areas of functioning."

Q: What are the "Standards of Care" for treating gender dysphoria?

A: Many health care providers rely on the *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8* (SOC-8) published by the World Professional Association for Transgender Health (WPATH) to guide how they treat children with gender dysphoria. Only parents have the right to direct and consent to the medical care of their minor children, including decisions regarding treatment for gender dysphoria. The WPATH SOC-8 for gender dysphoria includes mental health services, social transition, puberty-blockers, hormone therapy, and sex reassignment surgeries. However, Indiana prohibits certain treatments and procedures for minors with gender dysphoria, including the use of hormones, puberty blockers, and surgical procedures. [Ind. Code § 25-1-22-13.](#)

Q: Are the World Professional Association of Transgender Health (WPATH) "Standards of Care" for the treatment of gender dysphoria "evidence-based"?

A: The World Professional Association of Transgender Health (WPATH) publishes the *Standards of Care for the Health of Transgender and Gender Diverse People, Version 8* (SOC-8). Many health providers and courts defer to WPATH's guidelines as the recommended SOC for the treatment of gender dysphoria. In practice, WPATH has blurred the line between science and political advocacy.

Documents in a lawsuit challenging an Alabama law banning certain gender transition treatments for minors revealed that WPATH's SOC-8 was heavily shaped by a political agenda—at the expense of medical and scientific accuracy. Not only did some of the experts who participated in the formulation of the SOC-8



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guidelines have serious yet undisclosed conflicts of interest, it appears that WPATH removed age restrictions for certain treatments and surgeries —such as mastectomies, hysterectomies, and removal of male and female genitalia— at the behest of Biden-Harris Administration officials, including Assistant Secretary for Health, Dr. Rachel Levine.

More broadly, other experts and some government bodies disagree with SOC-8’s recommendations, including its promotion of puberty blockers. Sweden’s National Board of Health and Welfare concluded that “the risks of puberty blockers and gender-affirming treatment are likely to outweigh the expected benefits of these treatments.” England’s National Institute for Health & Care Excellence also concluded that the available evidence supporting the safety of puberty blockers and hormones are of “very low quality.” WPATH and its SOC-8 guidelines promote unproven and potentially dangerous treatments with little to no benefit to our vulnerable youth.

Q: Can a school provide treatment for gender dysphoria without parental consent?

A: No. Treatment and diagnosis for gender dysphoria, including a plan to socially transition a student to the opposite sex, is generally considered a health care service. [Indiana Code § 16-36-1-1](#) defines “health care services” as “any care, treatment, service, or procedure to maintain, diagnose, or treat an individual’s physical or mental condition.” As such, the diagnosis and psychological treatment of gender dysphoria can only be performed by a person licensed to do so under Indiana law.

In all cases, the person licensed to diagnose or provide psychological counseling to minor individuals with gender dysphoria must have the consent of the parent before doing so. . Failure to obtain parental consent violates the standards of practice under [Indiana Code § 25-1-9-4](#) and could result in disciplinary action by the appropriate licensing board.

In addition to parental consent for psychological counseling, a school must notify at least one parent in writing within five business days of a request made by a minor student to change the student’s name, pronouns, title, or word to identify the student. [Ind. Code § 20-33-7.5-2](#).



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If there is reason to believe that a minor has received health care services of any type without the consent of a parent or from an individual who is not licensed to do so, a complaint can be submitted to the Office of the Attorney General at <https://inoag.my.salesforce-sites.com/ConsumerComplaintForm?licensing=true>

Q: Can a doctor medically transition my child to the opposite sex?

A: No. Indiana law prohibits the use of surgical procedures and hormone therapies to transition children to the opposite sex to treat gender dysphoria. [Ind. Code § 25-1-22-13](#). The law does not prevent transgender children from receiving mental health services or counseling to treat gender dysphoria.

Q: Can a male student play on a female sports team?

A: Biologically male students are not permitted to play on a female sports team organized, sanctioned, or sponsored by a public school in which the students compete against students on another public school's athletic team. Private schools that compete against public schools or through a high school interscholastic athletic association must also adhere to this law. [Ind. Code § 20-33-13-4](#). Parents may submit complaints for violations of this law through a grievance policy established by schools under [Indiana Code § 20-33-13-5](#). Under [Indiana Code § 20-33-13-6](#), a student who has been denied an athletic opportunity or has been directly or indirectly injured through a violation of this law has the right to bring a civil action against the school to seek injunctive relief, actual and consequential damages or liquidated damages of not more than \$1,000 (whichever is greater), attorney's fees, and any other relief determined by the court. [Ind. Code § 20-33-13-7](#).

The same prohibition applies to collegiate teams under [Indiana Code § 21-18-13.5](#).



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Q: Can a male student use the female restrooms, locker rooms, and showers?

A: Nothing in the Constitution or any other federal law requires schools to have co-ed bathrooms, locker rooms, or showers. Title IX 1972 recognizes that schools may have sex-separated living facilities. Despite this, the U.S. Court of Appeals for the Seventh Circuit has ruled that an Indiana school policy requiring students to use bathrooms and locker rooms corresponding to their sex cannot legally be applied to students who identify as transgender. *See A.C. v. Metropolitan School District of Martinsville*, 75 F.4th 960 (7th Cir. 2023). Other courts of appeals have reached different conclusions, and the Seventh Circuit is currently reconsidering its precedent. But until the U.S. Supreme Court weighs in or the Seventh Circuit overturns its precedent, the Seventh Circuit's decision remains binding precedent in Indiana.



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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. 34 CFR § 99.3; 34 CFR § 99.5(a)(1). “Education record” is 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. Parents are entitled to documents and records directly related to the student that are in the school's possession.

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

A: FERPA permits disclosures without parental consent if it is necessary to protect the health and safety of students 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 without parental consent 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 education official determines that a disclosure must be made but also determines that the health and safety exception (or other applicable exception) does not apply, 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 to the time period of the emergency and generally does not allow for a blanket release of personally identifiable health information, commonly referred to as “protected health information” or “PHI,” from student education records.

In addition to the health and safety exception, FERPA allows schools and educational agencies to disclose personally identifiable information held by the school in the student's education record, including mental,



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physical, and medical health information, to teachers and a “school official,” without parental consent. “School official” is defined broadly to include a person who is 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 personal health information to be shared widely without parental consent.

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, refusing to correct inaccurate information included in the record, and making unlawful disclosures of a student record can be resolved through the complaint process. *See* “Additional Parent Resources” for information on how to file a FERPA complaint.

FERPA is a federal law; thus, the Indiana General Assembly 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 legislature to prohibit schools from including such information in the student’s education record.

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

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

In most cases, schools are not 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 protected health information. This is true even if protected health information happens to be contained within an education



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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 Indiana General Assembly 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: Are there federal laws that preempt state laws on the disclosure of a minor’s medical records to the minor’s parent?

A: No. Similar to Indiana law, HIPAA requires that if the individual is an unemancipated minor, covered entities must treat a parent as a personal representative and disclose protected health information (PHI) to the parent. 45 CFR 164.502(g)(3)(i). When a state has separate rules on disclosure, HIPAA allows covered entities to disclose, or refrain from disclosing, PHI to a personal representative by deferring to state law. Federal regulations indicate that a state law may allow more disclosure, or a state may provide for more restrictive measures where a covered entity is prohibited from disclosing PHI. 45 CFR 164.502(g)(3)(ii). Where a state does not have requirements on such disclosures, the general rules and exceptions in HIPAA apply.

Q: Can a hospital refuse a parent access to his or her child’s medical records if the child is between the ages of 14 and 17?

A: No. Health care systems cannot claim that HIPAA, the 21st Century Cures Act, and “state law” allow them to deny a parent access to their adolescent’s medical records or withhold important confidential medical information. State and federal law do not require minors to grant access to parents prior to parents accessing records. In fact, it requires parents to have access to their children’s records and for parents to consent to health care for their children in most cases. Health care systems may not use exceptions as blanket policies to exclude parents from accessing general medical records.

Q: Is a school required to include a student’s immunization history in a student’s high school transcript?

A: No. Indiana law does not require the inclusion of immunization information in an official high school transcript. [Ind. Code § 20-33-2-13](#).



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Vaccinations in School

Q: Can vaccinations of minors be mandated?

A: 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. Mandatory immunizations are recommended by the Indiana State Department of Health (“IDOH”) and adopted by the General Assembly. [Ind. Code § 20-34-4-2](#). IDOH 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) required immunizations for the following school year; and (2) recommended immunizations 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 [Indiana Code § 20-34-4-1](#) to keep an immunization record for each student.

Q: Can children be vaccinated without parental permission?

A: No. Health providers must have the consent of a parent or legal guardian regarding health care decisions, including vaccinations. [Ind. Code § 16-36-1-3\(a\)](#).

Q: What information must the Indiana Department of Health and schools include in parent notifications regarding immunizations required for school enrollment?

A: Any notification distributed by the Indiana Department of Health or a school to a parent of a student regarding immunizations must clearly delineate immunizations that are required for school enrollment from immunizations that are only *recommended*. [Ind. Code § 20-34-4-3\(e\)](#).



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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. 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 ensure 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 believe your child’s rights have been denied 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 U.S. Department of Education Office for Civil Rights (“OCR”). *See* “Additional Resources” for more information.

Q: What is a family navigator?

A: A family navigator is an individual who is credentialed by the Office of the Secretary of Family and Social Services with a background in any of the following fields: audiology, deaf education, early childhood education, special education, or speech-language pathology. [Ind. Code § 20-35-11-2.3](#). The purpose of a family navigator is to aid families in accessing resources and information available through the Center for Deaf and Hard of Hearing Education (CDHHE). [Ind. Code § 20-35-11-6](#).



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

A: An Individualized Education Program (IEP) is 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 IEP describes how a student with a disability shall access the general education curricula, 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 written notice that includes a statement and other factors relevant to its 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 prohibit a parent from recording a meeting to discuss a student’s individualized education plan (IEP)?

A: No. Under Indiana law, school boards may not adopt policies that prevent the parent of a student from recording a meeting concerning the student’s IEP. [Ind. Code § 20-26-5-45](#).

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 parental rights



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and remedies are outlined in the Indiana Administrative Code (IAC) and provide in part the right of parents to challenge proposed actions and changes to an [IEP. 511 IAC 7-42](#). In the event of a 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.

Q: Can parents revoke consent for special education services their 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. [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 right 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](#).



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

A: The General Assembly (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:

- 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.
- 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.
- Students without disabilities who are nevertheless unable to attend school. [511 IAC 7-32-45](#).



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Sexual Behaviors and Abortion

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. [Ind. Code § 16-36-1-3](#).

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](#). A minor who objects to obtaining parental consent or whose parent refuses to consent may petition the court for a waiver of parental consent. [Ind. Code § 16-34-2-4\(c\)-\(f\)](#).

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

A: No. Referral and counseling for abortions require parental consent, just like all other medical treatments. [Ind. Code § 16-36-1-3](#). Regardless of parental consent, school corporations that enroll in a program to use federal funds under the Medicaid program are prohibited under 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 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 and virtual schools (public and charter). Consistent with Art. 8, §1 of the Indiana Constitution, all types of public schools are open to all students 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. [Ind. Code § 20-18-2-15](#).

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 [Indiana Code art. 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.

Although public charter schools are exempt from certain state and district regulations, they are held to high levels of accountability. In addition to meeting state and federal accountability requirements, charter schools must also meet the requirements set out in their charter. An authorizer may revoke a school’s charter at any



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time if the school is not fulfilling the terms of its charter. Charter schools are nonreligious. Charter schools have more flexibility to set curricula, school hours, and rules than traditional public schools. Charter schools can be brick-and-mortar or virtual. [Ind. Code §§ 20-24-1-4](#); and [20-24-1-10](#). [Indiana Code § 20-24-7-17](#) governs the financial and notification requirements upon the closure of a charter school.

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 and online with students retaining some degree of control over time, location, and pace.

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

A: A student's assigned public school district is where a student has legal settlement. Generally, legal settlement is the location where a student's parents reside. [Ind. Code § 20-26-11-1](#). If a student's mother and father divorce or separate, a student's legal residence is the residence of the parent with custody of the child. 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](#).

Q: Do children have to attend school in the public school district where they reside?

A: No. Indiana has open enrollment policies that allow for a parent to request a transfer outside of the school corporation where the student has legal settlement. [Ind. Code § 20-26-11-5](#).



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Q: Do parents have to pay for their children's textbooks in public schools?

A: No. Schools must cover the cost of curricular materials, including textbooks. Schools may, however, charge a fee for lost or damaged curricular materials. Schools may also assess and collect a reasonable fee for supplies and materials that are not curricular materials and supplement the instruction in a particular course of study. [Ind. Code § 20-26-12-1](#).

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 across all schools, the per-pupil amount of the complexity grant varies according to each school's demographics. 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. [Ind. Code § 20-43-13-4](#). The amount of state tuition support to virtual schools is 15% less than brick-and-mortar schools.

In addition to the foundation and complexity grants, state tuition support is awarded to schools based on the number of students who participate in career and technical education programs, have special education needs, are non-English speaking, and receive academic performance grants. [Ind. Code § 20-43-7-1](#); [Ind. Code § 20-43-10-4](#); [Ind. Code § 20-43-8-15](#); and [Ind. Code § 20-43-10.5-1](#). Special education dollars are also distributed to schools for each eligible student based on the level of disability.

Q: Is there a way to compare how much each school spends on student learning and classroom instruction versus non-academic expenses, such as debt financing and overhead costs?

A: Yes. Indiana law requires the Office of Management and Budget ("OMB") to publish a report including the ratio of student instructional expenditures (academic achievement and instructional supports) to non-instructional expenditures (overhead, operations, and debt financing). [Ind. Code § 20-42.5-3-5](#). Parents who wish to compare the budgets of individual schools and districts can view more detailed information via the "Dollars to the Classroom" report available on OMB's website.



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Private Schools

Q: What qualifies as a private school?

A: A school not maintained by a school corporation or a charter school. [Ind. Code § 20-18-2-12](#). Indiana law generally refers to private schools as “nonpublic” 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, and homeschools.

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](#).

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](#). 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 § 20-33-2-20](#).



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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 § 20-31-4.1](#). A private school may also be accredited through a third-party accreditation organization recognized by the SBOE. A school that seeks state accreditation or a third-party accreditation agency that seeks to be recognized by SBOE must complete and submit an application form established by SBOE. SBOE must approve or deny the application within six months and, if denied, must provide the reasons for the denial. [Ind. Code § 20-19-2-10.5](#).

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

A: [Indiana Code § 20-31-4.1](#) requires the State Board of Education (SBOE) to develop a performance-based accreditation system to which all public schools must adhere and private schools may voluntarily apply. As determined by 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 State Board of Education (SBOE) under Title 511 Indiana Admin. Code art. 6.1.

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



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

A: Yes. For private school students with disabilities, 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. 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. 511 Ind. Admin. Code art. 7.

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. 511 Ind. Admin. Code 7-34.



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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. Ct. 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 a non-accredited and non-public school with less than one employee.

Q: What laws govern and regulate homeschoolers in Indiana?

A: The General Assembly has enacted several homeschool laws:

- Children ages 7-17 must be educated. [Ind. Code § 20-33-2-6](#).
- 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](#); and [20-30-2-3](#).
- Parents must begin keeping attendance records the date the child turns 7, and 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 instruction equivalent to that given in public schools. [Ind. Code § 20-33-2-28](#).
- Home educators are not bound to curriculum and content requirements in [Title 20](#) or [Title 21](#) of the [Indiana Code](#). [Ind. Code § 20-33-2-12](#).
- 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 SBOE that explains the legal requirements of attending a non-accredited, non-public school located in Indiana. [Ind. Code § 20-33-2-28.6](#).



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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: 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 curricula. Indiana does offer a tax deduction of \$1,000 for educational expenses related to private education. Some homeschooled students may qualify for an Education Scholarship Account. See the Education Scholarship Account section of *The Parents' Bill of Rights*.

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.



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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”), commonly referred to as the voucher program, provides scholarships to eligible Indiana students to offset tuition costs at participating private schools. [Ind. Code ch 20-51-4](#).

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.

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

A: Per [Indiana Code § 20-51-4-2](#), an eligible choice scholarship student is entitled to a choice scholarship under this chapter for each school year that the eligible choice scholarship 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 as of October 1 of the school year. An eligible choice scholarship student is not entitled to receive the choice scholarship if the student receives an annual grant amount under the Indiana Education Scholarship Account (ESA) program for the same year.

Q: Can a parent petition for reconsideration of a Choice Scholarship eligibility decision made by the Indiana Department of Education?

A: A parent of an eligible Choice Scholarship student, or an eligible school on behalf of a parent of an eligible student, may petition IDOE to reconsider the eligibility of a Choice Scholarship student enrolled in the eligible school if the parent has reason to believe that the student was determined ineligible due to membership data inaccuracies reported by a school. Petitions must be received by the department not later than 30 days after the date of notification of payment based on the official fall and spring Average Daily Membership count dates. [Ind. Code § 20-51-4-5.5](#).



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Q: How is the Choice Scholarship Program funded?

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

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. 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.

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](#). The amount of a choice scholarship varies depending on the per-pupil amount of state tuition support received by the school district. If a student is eligible for special education funds and the private school provides such services to the student, the voucher would include an additional amount depending on the student's disability. [Ind. Code § 20-43-7-9](#).

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 in the school.



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Q: Do schools participating in the Indiana Choice Scholarship Program have more regulations than nonparticipating private schools?

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. In addition to the regulations for state accreditation, participating Choice Scholarship Program schools must follow regulations established under [Indiana Code ch. 20-51-4](#).

Q: Is an Indiana 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. 511 IAC art. 7-49.

Q: Are Indiana 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 private school special education students. 511 IAC art. 7-49.

If a parent selects to have the special education services provided by the private Choice school, the private school staff will meet with the parent and develop a Choice Special Education Plan (CSEP), similar to a Service Plan (SP) developed for non-Choice private school 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 art. 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 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 have donated to an SGO approved by the IDOE will then be eligible to take advantage of a fifty percent credit 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 funded by private, charitable donations and awarded by a certified SGO, not the state of Indiana. 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. An SGO school scholarship may also be used to pay for tuition and expenses for students in pre-kindergarten. [Ind. Code § 20-51-1-8](#).

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.

Q: What are the eligibility requirements for a student 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 4 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 400% of the amount for the individual to qualify for federal free or reduced lunch. [Ind. Code § 20-51-1-5](#).



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Q: What is the amount of a scholarship from an SGO?

A: There is no amount established by state statute that an SGO must award to an eligible student. However, the maximum amount can't exceed the cost of tuition at the school to which the scholarship applies.

Q: Can a student be awarded a scholarship from an SGO and be awarded 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: The Indiana Education Scholarship Account Program (INESA) offers 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 a portion of their ESA funds annually for transportation services. [Ind. Code § 20-51.4](#).

Q: Who is eligible for an ESA?

A: Students are eligible for an ESA if they have legal settlement in Indiana; are at least 5 and less than 22 years of age on October 1 of the applicable school year; are not enrolled in a public school; and have either an Individualized Education Plan (IEP), Service Plan (SP), or Choice Special Education Plan (CSEP) for special needs. The definition of an “eligible” student also includes a sibling of a student who has an ESA account established in the student’s name. [Ind. Code § 20-51.4-2-4](#).

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

A: Both ESAs and Choice Scholarships are paid for with funds appropriated by the IGA. However, scholarships through the Indiana 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. Importantly, only students with a diagnosed disability requiring special education services are eligible for ESAs, as well as siblings of students with established ESA accounts. [Ind. Code § 20-51.4-2-4](#).



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Q: What types of qualified education services can an ESA be used for?

A: An ESA 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](#).

Q: May a parent receive reimbursement for an ESA claim for instruction that he or she provides personally to his or her child?

A: A parent who solely provides instruction to his or her child may not submit a claim for reimbursement of an ESA qualified expense of tuition and fees. [Ind. Code § 20-51.4-5-7](#).

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

A: Applications to participate in the ESA program are provided through IDOE.

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 year-to-year and from school-to-school based on the state tuition support amount. 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. [Ind. Code § 20-51.4-4-4](#).

Q: What responsibilities are required of a parent 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, SP, or CSEP. [Ind. Code § 20-51.4-4-1](#).



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Career Scholarship Accounts

Q: Is there funding for my child to pursue an apprenticeship or other work-based learning opportunities?

A: Yes. The Career Scholarship Account (CSA) program, which is administered by the Indiana Department of Education, provides grants annually to eligible public and private school students enrolled in qualified programs to pursue apprenticeships, applied learning experience, work-based learning, and credentials of value.

Q: What students are eligible for a CSA?

A: To be an “eligible” CSA student, the individual must (1) have legal settlement in Indiana; (2) be at least five (5) years of age and less than twenty-two (22) years of age on the date in the school year specified in [Ind. Code § 20-33-2-7](#); and (3) be enrolled in grades 10, 11, or 12 in [Indiana. Ind. Code § 20-51.4-2-1.5](#).

RELIGIOUS FREEDOM

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 IV**



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Volume IV: Religious Freedom

Religious Expression

Q: Do students have a First Amendment right to express their religious beliefs at school?

A: Yes. Students retain their First Amendment liberties while at school. Religious speech must be treated the same as all other speech. In school, students are free to pray, discuss their faith, read the Bible or other religious texts, and invite others to share and participate in such activities.

Public schools are required to reasonably accommodate the religious beliefs and practices of students, and school officials are prohibited from showing hostility toward religious viewpoints. *Good News Club v. Milford Cent. Sch.*, 533 U.S. 98 (2001). School districts are to remain neutral toward religion. *Everson v. Bd. of Ed. of Ewing Twp.*, 330 U.S. 1, 18 (1947).

Indiana law prohibits discrimination on the basis of religious viewpoint or expression in school. [Ind. Code § 20-33-12-2](#). This includes expression of their religious beliefs in their schoolwork. [Ind. Code § 20-33-12-3](#).

To be protected by law, religious expression in public schools must be student-led, student-initiated, and voluntary. School officials may not prohibit student expression during non-instructional time unless it (1) materially and substantially interferes with the operation of the school or (2) infringes on the rights of other students. *Tinker v. Des Moines Indep. Cmty. Sch. Dist.*, 393 U.S. 503, 509 (1969). A school may not prohibit student expression solely because others might find it offensive. However, public schools cannot require children to adopt particular ideological beliefs. *West Virginia State Bd. of Educ. v. Barnette*, 319 U.S. 624, 642 (1943) (held that public school students cannot be required to recite the Pledge of Allegiance).

Q: Do students have a First Amendment right to speak freely at school?

A: Yes. Students do not “shed their constitutional rights to freedom of speech or expression at the schoolhouse gate.” *Tinker* 393 U.S. at 506 (1969). Students have a First Amendment right to free speech on campus, but schools have a special interest in regulating speech that “materially disrupts classwork or involves substantial disorder or invasion of the rights of others.” *Id.* at 513. In *Tinker*, the Supreme Court’s landmark case addressing



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student speech, the Court held that a school suspension of students for wearing black armbands in protest of the Vietnam War violated their First Amendment rights.

In a recent case, the Supreme Court held that a school violated a student's freedom of speech when the school suspended her from cheerleading activities for posting two vulgar Snapchat messages—while off campus and after school hours—that were critical of the school and the cheerleading team. *Mahanoy Area Sch. Dist. v. B. L. by & through Levy*, 594 U.S. 180, 193-94 (2021). Of course, “the leeway the First Amendment grants to schools in light of their special characteristics is diminished” when speech occurs off campus. *Id.* at 190. However, schools may still regulate certain kinds of off-campus speech when the speech includes “serious or severe bullying or harassment targeting particular individuals; threats aimed at teachers or other students; the failure to follow rules concerning lessons, the writing of papers, the use of computers, or participation in other online school activities; and breaches of school security devices.” *Id.* at 188. In this specific case, “the school’s interest in teaching good manners” was insufficient to “overcome [the student’s] interest in free expression.” *Id.* at 192.

A school may also restrict speech that promotes illegal activities. *Morse v. Frederick*, 551 U.S. 393 (2007) (held that a school could suspend a student for bringing a large banner that read, “BONG HiTS 4 JESUS” to a school event).

Q: Can students pray at school?

A: Yes. The U.S. Supreme Court observed “nothing in the Constitution . . . prohibits any public school student from voluntarily praying at any time before, during, or after the school day.” *Santa Fe Independent Sch. Dist. v. Doe*, 530 U.S. 290, 313 (2000). Because prayer is private speech, students are allowed to pray at school during non-instructional time so long as the prayers are not disruptive or appear to be endorsed by the school or school officials. Indiana law requires a moment of silence every school day so that students may exercise their religion by praying or meditating during that moment. [Ind. Code § 20-30-5-4.5](#).



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Q: Can students express their religious beliefs in classroom discussion or in an assignment?

A: Yes. Under Indiana law, schools may not discriminate against students based on the student's religious viewpoint or religious expression, nor may a school penalize students based on religious content or viewpoint expressed in school assignments. [Ind. Code § 20-33-12-2](#); and [-3](#). School officials and employees cannot prohibit religious expression in class without a legitimate educational purpose for doing so. *Hazelwood Sch. Dist. v. Kuhlmeier*, 484 U.S. 260, 266 (1988).

Q: Can students read or distribute religious material at school?

A: Yes, provided that the material is distributed during non-instructional time. A student may not interfere with his own or other students' learning activities, whether he or she is distributing religious or non-religious material. *Tinker.*, 393 U.S. at 513 ("conduct by the student, in class or out of it, which for any reason—whether it stems from time, place, or type of behavior—materially disrupts classwork or involves substantial disorder or invasion of the rights of others" may be prohibited by school officials).

Q: Can students advertise or promote religious events at school?

A: Yes. Students have the ability to promote religious events occurring outside of the school in the same way that students advertise non-religious events that are not school activities or functions. Treating religious speech differently would be discriminating against students based on the content of their speech—which the First Amendment forbids. *Rosenberger v. Rector and Visitors of University of Virginia*, 515 U.S. 819, 828 (1995) ("Discrimination against speech because of its message is presumed to be unconstitutional."). However, the religious events to be advertised or promoted should not involve the direct or indirect participation or approval of the school or its employees.



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Q: Can students wear religious clothing, symbols, or jewelry at school?

A: Yes. In *Tinker*, the Supreme Court held that school officials could not prohibit students from wearing black armbands to protest the Vietnam War in violation of the students' First Amendment rights. *Tinker*, 393 U.S. 503 at 514.

A student's liberty to wear religious symbols and jewelry as a personal expression of their faith is at least as strong as the liberty possessed by the students in *Tinker*. The First Amendment provides a double layer of protection to students' private religious expression by guaranteeing freedom of speech as well as the free exercise of religion. *Kennedy v. Bremerton Sch. Dist.*, 597 U.S. 507, 540 (2022).

Q: Can a school recognize religious holidays such as Christmas or Easter?

A: Yes, as long as the purpose is not to advance a particular religion. A public school can recognize a legal public holiday and teach the history or cultural heritage of that holiday.

In *Freedom from Religion Found., Inc. v. Concord Comty. Schs.*, the U.S. Court of Appeals for the Seventh Circuit found that a school's "Christmas Spectacular" concert, featuring traditional Christmas songs such as "O Holy Night" and a briefly appearing nativity scene was not prohibited under the First Amendment. 885 F.3d 1038 (7th Cir. 2018). The court concluded that the Christmas Spectacular was "primarily a non-religious seasonal celebration" and that "a reasonable audience member, sitting through the 90-minute Spectacular, would not understand the production to be ratifying a religious message." *Id.* at 1047.

In sum, schools can recognize religious holidays for the purpose of teaching its history or culture, but the purpose may not be to advance a particular religion.



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Q: Can the Bible and other religious texts be used appropriately in a public school classroom?

A: Yes. The study of the Bible for its literary and historic qualities and study of religion, “when presented objectively as part of a secular program of education, may [] be effected consistently with the First Amendment.” *Sch. Dist. Of Abington Tp., Pa v. Schempp*, 374 U.S. 203, 225 (1963); *See also Stone v. Graham*, 449 U.S. 39, 42 (1980) (“[T]he Bible may constitutionally be used in an appropriate study of history, civilization, ethics, comparative religion, or the like.”) However, schools cannot advance a particular religion. *Engel v. Vitale*, 370 U.S. 421 (1962).

Q: Can students leave campus during the school day to participate in religious instructional activities?

A: Yes. Courts have held that schools may allow students to leave campus for “released time” to attend voluntary religious activities and programs. *Zorach v. Clauson*, 343 U.S. 306 (1952). Under Indiana law, a parent may request, and the principal “shall” allow, a student to be released from his or her public school to attend religious instruction “conducted by a church, an association of churches, or an association that is organized for religious instruction and incorporated under Indiana law.” [Ind. Code § 20-33-2-19\(a\)](#). The period or periods that a student receives religious instruction may not exceed one hundred twenty (120) minutes per week for students in elementary school or the amount of time that is equivalent to attending one (1) elective course during the week for students in public secondary school. [Ind. Code § 20-33-2-19\(c\)](#). A student receiving religious instruction is entitled to “the same attendance credit that the student would receive for attendance in the public schools for the same length of time.” [Ind. Code § 20-33-2-19\(e\)](#). The student may also receive academic credit for attending religious instruction, provided that the local school board adopts a policy allowing for academic credits and certain other conditions specified in the statute are met. [Ind. Code § 20-33-2-19\(f\)](#).



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Student Organizations

Q: Can schools fund religious clubs?

A: Yes, provided no public funds are used. The Establishment Clause prohibits the use of public funds for religious activity. *Rosenberger*, 515 U.S. 819. However, if a school collects activities fees from parents and students and distributes those funds for use by other school clubs, it cannot discriminate against student religious clubs.

In *Rosenberger*, the Supreme Court held that a university policy prohibiting a Christian student newspaper from accessing a Student Activities Fund to cover printing costs amounted to “viewpoint discrimination” and thus a denial of the Christian newspaper’s freedom of speech. See also *Prince v. Jacoby*, 303 F.3d 1074 (9th Cir. 2002) (a school policy denying a Bible club the ability to use student body funds accessed by non-religious clubs violates the Equal Access Act).

Q: Can a religious club require specific qualifications for membership?

A: Yes. Religious clubs have a constitutional right to select members and leaders who share their beliefs and agree to abide by a code of faith. “The forced inclusion of an unwanted person in a group infringes the group’s freedom of expressive association if the presence of that person affects in a significant way the group’s ability to advocate public or private viewpoints.” *Boy Scouts of Am. v. Dale*, 530 U.S. 640, 648 (2000); *Christian Legal So’y v. Walker*, 453 F.3d 853 (7th Cir. 2006) (concluding a university violated the First Amendment when it derecognized a Christian organization for excluding homosexuals from voting membership); *Hsu By and Through Hsu v. Roslyn Union Free Sch. Dist. No. 3*, 85 F.3d 839, 848 (2nd Cir. 1996) (school Bible club’s Christian-only requirement for certain officers was permissible since it was “essential to the expressive content of the [club] meetings and to the group’s preservation of its purpose and identity”). Moreover, courts repeatedly emphasize that nothing in the Equal Access Act authorizes discrimination based on race or sex. *Id.*



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Nevertheless, if a school has a nondiscrimination or “all-comers” policy that is viewpoint neutral and generally applicable, it “does not transgress [First Amendment] limitations.” *See Christian Legal Soc’y Chapter of the Univ. of California, Hastings Coll. of the L. v. Martinez*, 561 U.S. 661, 669 (2010). In *Martinez*, the Court upheld the school’s open-access policy, which prevented the Christian Legal Society from excluding members who hold religious convictions different from those in their Statement of Faith. *Id.*

Q: What can be discussed during a religious club meeting?

A: Students in a religious club enjoy the freedom to worship and to speak freely and openly. When meetings take place outside of instructional time, the school does not control the content. Students may pray, sing, read and study the Bible, share in testimonials, and engage in any other activities as the club sees fit. A school may not censor the religious conversations of the club. Religious worship and discussion constitute “forms of speech and association protected by the First Amendment.” *Widmar v. Vincent*, 454 U.S. 263, 269 (1981).

Q: Can a school sponsor a religious club?

A: No, schools may not sponsor a religious club. This non-sponsorship requirement ensures that schools are not promoting or officially sanctioning religion. Of course, a school has inherent authority to maintain order and supervise its students, so the presence of a school employee is permitted, but only in a non-participatory capacity. 20 U.S.C. § 4071(c) (3).

Q: Can a religious club invite outside speakers to meetings?

A: Yes, but only if doing so will not interfere with the orderly and safe operation of the school. Schools cannot restrain speech when a specific motivating opinion or ideology of the speaker is the reason for restricting the speaker. Generally, “a viewpoint-discriminatory regulation is presumed to be unconstitutional.” *Wigg v. Sioux Falls Sch. Dist.* 49-5, 382 F.3d 807, 828 (8th Cir. 2004). The Equal Access Act provides that outside speakers may not control or regularly attend school club meetings. 20 U.S.C. 4071 (c)(5).



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Q: What can a religious club do if a school refuses to recognize the club?

A: If parents believe that a school has improperly denied the option of forming or fully participating in a religious club at school, parents should bring the matter to appropriate school personnel and/or your local school board. Remember, parents are their child's best advocates. Reach out to other parents who may be in a similar situation to gather facts, compare notes, and discuss ideas and strategies.

If this does not resolve the situation, parents may want to seek legal counsel to discuss potential violations of their child's First Amendment rights. Attorneys who practice in the areas of educational law and parents' rights may be willing to evaluate the case.



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Organization and Teacher Involvement

Q: What is the extent of a school employee's participation in religious expression or club meetings?

A: Public school officials and employees cannot promote or disparage any religious belief or non-belief in any of its programs or services. Additionally, school officials and employees may only attend student religious clubs in a non-participatory capacity. 20 U.S.C. § 4071 (c)(5).

Outside of school, employees are permitted to discuss religion with students to the same extent they may discuss any other topic. "[T]here is a crucial difference between government speech endorsing religion, which the Establishment Clause forbids, and private speech endorsing religion, which the Free Speech and Free Exercise Clauses protect." *Wigg* at 813 (finding that an elementary school teacher could participate in religious group meetings held on school property after the school day because the activity constituted private speech).?

Teachers and school employees may meet for prayer or Bible study during non-instructional time (before school, at lunch, after school) to the same extent they may engage in non-religious discussion and activities. Since schools must remain neutral toward religion during instructional time, teachers may only discuss religion when it is relevant and appropriate to a classroom topic or the secular program of education.

The prayer or Bible study during non-instructional time constitutes private speech (in which case it is constitutionally protected expression) as opposed to government speech (which can be regulated by a government employer). *See generally, 597 U.S. 507 Garcetti v. Ceballos, 547 U.S. 410 (2006).*

If the prayer or Bible study interfered with the school's responsibilities of ensuring an orderly environment, the school likely would be within its rights to disallow the group.



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Q: Are school employees allowed to discuss religion with students?

A: Not during instructional time. Any discussion that goes beyond relevant and appropriate classroom discussions or study of religion in history, art, music, and culture, as part of the secular educational mission of the schools, would be legally problematic. Schools must remain neutral on religious matters during instructional time. The government may control the content of an employee's speech where the employee is speaking on behalf of the government. *Kennedy*, 597 U.S. at 527.

Of course, government employees do not forfeit their ability to speak as private citizens on matters of public concern. Outside of school, school employees retain their full First Amendment rights. Additionally, no government employee may coerce students to participate in a religious exercise or religious speech. A school employee's communication of the tenets of one's faith to students would likely be challenged as coercion to a captive audience.

Q: May coaches lead prayer at practices or games with students?

A: In *Kennedy*, the Supreme Court held that a coach's private prayers at midfield after a football game were not government speech. *Kennedy*, 597 U.S. at 529. The Court distinguished this from prayers that were "publicly broadcast or recited to a captive audience." *Id.* at 542. The question of whether students could participate in such prayers if there was no requirement or coercion was not answered by the court.



Additional Parent Resources

School Curriculum and Parent Rights

- Indiana academic standards information:
<https://www.in.gov/doe/students/indiana-academic-standards/>
- Indiana graduation pathways information:
<https://www.in.gov/doe/students/graduation-pathways/>
- IDOE guide for Social-Emotional Learning:
<https://www.ckfindiana.org/wp-content/uploads/2021/10/IN-Social-Emptional-Learning-Competencies-Serving-the-Whole-Child.pdf>
- Indiana graduation pathways information:
<https://www.in.gov/doe/students/graduation-pathways/>
- IDOE newsletters:
<https://www.in.gov/doe/about/news/newsletters/>
- Statement from Secretary of Education Katie Jenner:
<https://drive.google.com/file/d/1S8gkMemR5BrLxPJH3VcfrxniEw7CRNQ/view>
- 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/>
- Indiana Code Title 20 Education:
<https://iga.in.gov/laws/2026/ic/titles/20#20>

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.pdf>



- Indiana's Administrative Rules and Procedures Act, Ind. Code § 5-14-3:
<https://iga.in.gov/laws/2026/ic/titles/5#5-14-3>
- Indiana's Open Door Law, Ind. Code § 5-14-1.5:
<https://iga.in.gov/laws/2026/ic/titles/5#5-14-1.5>
- Indiana Election Division's candidate guide:
<https://www.in.gov/sos/elections/candidate-information/>
- 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/dispute-resolution/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.hhs.gov/hipaa/for-professionals/faq/513/does-hipaa-apply-to-an-elementary-school/index.html>
- General information regarding student privacy:
<https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>



- 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:
<https://iga.in.gov/laws/2026/ic/titles/20#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/dispute-resolution/special-education-due-process-hearing-511-iac-7-45-3-through-7-45-7/>
- Information regarding IEP rules and procedures:
<https://www.in.gov/doe/files/Navigating-the-Course-August-2025.pdf>

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.in.gov/doe/it/school-accreditation/>



- Indiana State Budget:
<https://www.in.gov/sba/budget-information/budget-data>
- Indiana Department of Education state tuition support financial report:
<https://www.in.gov/doe/school-operations/finance/>

Private Schools

- Indiana State Board of Education legal standards for state accreditation:
<https://www.in.gov/doe/it/school-accreditation/>
- United States Department of Education regulatory guidance for Indiana non-public schools:
<https://www.ed.gov/birth-grade-12-education/education-choice/state-regulation-of-private-and-home-schools/indiana-state-regulation-of-private-and-home-schools>
- Indiana Department of Education guidance for special education:
<https://www.in.gov/doe/files/Navigating-the-Course-August-2025.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/2026-2027-participating-choice-schools>
- Indiana Department of Education list of Choice Scholarship Program Final Award Amounts:
https://www.in.gov/doe/files/Final-Award-Amounts-2025-2026_3.pdf
- Indiana Department of Education report on finances of Choice Scholarship Program:
<https://www.in.gov/doe/files/2024-2025-Annual-Choice-Report.pdf>
- Indiana Department of Education Choice Scholarship Program FAQ:
https://www.in.gov/doe/files/Choice-FAQ-2025-2026_1.pdf



Scholarship Granting Organizations

- Scholarship Granting Organization (SGO) Program Information

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

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://hslda.org/>

- Indiana Association of Home Educators:

<https://iahe.net/>

Religious Freedom

- Full texts of United States primary documents, including the Constitution, Bill of Rights, Articles of Confederation, The Federalist Papers: <https://billofrightsinstitute.org/primary-sources/>
- Information on student rights and the freedom of expression:

<https://billofrightsinstitute.org/e-lessons/student-rights-and-the-freedom-of-expression>