Summary of Rights and Benefits for Indiana Teachers

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Office of the Indiana Attorney General
Curtis T. Hill, Jr., Attorney General

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SUMMARY OF STATUTORY RIGHTS FOR TEACHERS

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The following summarizes federal and Indiana state laws that establish rights and limitations of teachers in their employment. Additional information concerning rights and regulations may be found at the following sources:

United States Code (U.S.C.)	http://uscode.house.gov/browse.xhtml	
Code of Federal Regulations (C.F.R.)	https://www.gpo.gov/fdsys/	
Indiana Code (I.C.)	http://iga.in.gov/legislative/laws/2017/ic/titles/001	
Indiana Administrative Code (I.A.C.)	http://www.in.gov/legislative/iac/	
United States Department of Labor, OSHA	https://www.osha.gov/	
United States Department of Education, Laws & Guidance	http://www2.ed.gov/policy/landing.jhtml?src=pn	
United States Office for Civil Rights	www2.ed.gov/about/offices/list/ocr/docs/hq53e8.html	
Indiana Department of Education	http://www.doe.in.gov/	
Indiana State Board of Education	http://www.in.gov/sboe/	
Indiana Education Employment Relations Board	www.in.gov/ieerb	317-233-6620
Indiana State Teachers Association	https://ista-in.org/	844-275-4782
AFT Indiana	http://in.aft.org	317-299-5395

NOTICE OF RIGHTS AND PROTECTIONS

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Not later than July 30 of each year, the Attorney General, in consultation with the Indiana Education Employment Relations Board (IEERB) established in I.C. 20–29–3–1, shall draft and disseminate a letter by first class mail to the residences of teachers, providing a summary of their and protections under state and federal law, including their rights and protections relating to performance evaluations under I.C. 20–28–11.5. Names and addresses collected and provided to the Attorney General for this purpose are confidential and excepted from public disclosure as provided in I.C. 5–14–3–4. I.C. 4-6-2-1.5(c).

The information in this letter may not be applicable to all teachers in all schools, including all publicly funded schools. Such teachers should consult an expert regarding any questions or concerns they may have pertaining to their rights.

LIMITATIONS ON LIABILITY

Back

For more information on limited liability, see: http://www2.ed.gov/policy/elsec/leg/esea02/pg33.html

Federal Law

Back

Under the Paul D. Coverdell Teacher Protection Act of 2001, no teacher in a school shall be liable for harm caused by an act or omission of the teacher on behalf of the school if—

(1) the teacher was acting within the scope of the teacher's employment or responsibilities to a school or governmental entity;
(2) the actions of the teacher were carried out in conformity with Federal, State, and local laws (including rules and regulations) in furtherance of efforts to control, discipline, expel, or suspend a student or maintain order or control in the classroom or school;
(3) if appropriate or required, the teacher was properly licensed, certified, or authorized by the appropriate authorities for the activities or practice involved in the State in which the harm occurred, where the activities were or practice was undertaken within the scope of the teacher's responsibilities;
(4) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the teacher; and
(5) the harm was not caused by the teacher operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to possess an operator's license or maintain insurance.

20 U.S.C. §§ 7941, 7946(a)

Additionally, punitive damages may not be awarded against a teacher in an action brought for harm based on the act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental

entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an act or omission of such teacher that constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed. 20 U.S.C. § 7946(c).

In any civil action against a teacher that is based on an act or omission of a teacher acting within the scope of the teacher's employment or responsibilities to a school or governmental entity, each defendant who is a teacher shall be liable only for the amount of noneconomic loss allocated to that teacher in direct proportion to the percentage of responsibility for which the teacher is found liable for the harm to the claimant. The court shall render a separate judgment against each defendant. For purposes of determining the amount of noneconomic loss allocated to a teacher defendant, the trier of fact shall determine the percentage of responsibility of that defendant for the harm to the claimant to whom the teacher defendant is liable. 20 U.S.C. § 7947.

State Law *Back*

Whenever a teacher (as defined in I.C. 20–18–2–22) is made a party to a civil suit, and the Attorney General determines that the suit has arisen out of an act that the teacher in good faith believed was within the scope of the teacher's duties in enforcing discipline policies developed under I.C. 20–33–8–12, the Attorney General shall defend the teacher throughout the action. I.C. 4-6-2-1.5(b). The teacher retains the right to select counsel of his or her own choice at the teacher's own expense. I.C. 4-6-2-1.5(h).

See also I.C. 34-13-3-3(20), conferring immunity on a public school teacher for injury to a student or a student's property, provided the teacher was acting reasonably under a discipline policy adopted under I.C. 20-33-8-12 or a restraint and seclusion plan adopted under I.C. 20-20-40-14.

REIMBURSEMENT FOR DEFENSE EXPENSES IN CERTAIN LEGAL ACTIONS

Back

A school corporation shall provide reimbursement, when requested, to a teacher for reasonable and customarily charged expenses, as determined by the school corporation, incurred in the teacher's defense of acts within the scope of the teacher's official duties when the teacher is:

(a) charged with a crime or an infraction, but all charges have been dismissed or the teacher has been found not guilty of all charges;
(b) the target of a grand jury investigation, but the grand jury fails to indict the teacher; or
(c) a defendant in certain civil actions if all claims that formed the basis of the civil action have been dismissed or a judgment is rendered in favor of the teacher on all counts in the civil action.

The school corporation may act on such a request without a hearing, and require the teacher seeking reimbursement to:

(a) answer questions under oath; or
(b) provide information or documents concerning the case or investigation for which the teacher is seeking reimbursement.

I.C. 36-1-17

The governing body of a school corporation has the specific power to defend a teacher in any suit arising out of the performance of the teacher's duties, provided the teacher's action was taken in good faith. The governing body may hold the teacher harmless from any liability, cost, or damage in connection with the teacher's performance. This would include the payment of legal fees. A teacher may be responsible for any liability, cost, or damage where the teacher acted in bad faith or committed malfeasance in office or in the teacher's employment.

I.C. 20-26-5-4(a)(17)

OCCUPATIONAL SAFETY AND HEALTH

Back

For more information on occupational safety and health, see:

https://www.osha.gov/ ***or contact the Occupational Safety & Health Administration at 1-800-321-OSHA (6742).***

A teacher's employer must establish and maintain conditions of work that are reasonably safe and healthful for employees, and free from recognized hazards that are causing or are likely to cause death or serious physical harm to employees. I.C. 22-

8-1.1-2. The employer must comply with the occupational health and safety standards promulgated under the Indiana Occupational Safety and Health Act (IOSHA), and pursuant to any directions in such standards, keep employees informed of their protections and obligations under the chapter, the hazards of the work place and suitable precautions, relevant symptoms, and emergency treatment for such hazards. I.C. 22-8-1.1-3.1.

No person shall discharge or in any way discriminate against a teacher because he or she has filed a complaint or instituted or caused to be instituted any proceeding under or related to IOSHA or has testified or is about to testify in any such proceeding, or because of the exercise by the teacher on behalf of himself or others of any right afforded by IOSHA. I.C. 22-8-1.1-38.1.

In the case of a written request to the commissioner of labor for an inspection by a teacher or a teacher's representative who believes that a violation of a safety or health standard exists that threatens physical harm or that an imminent danger exists, a copy shall be provided the employer at the time of inspection, except that, upon request of the complainant or by a decision by the commissioner:

(1) the name of the complainant and any identifying information; and
(2) the name and identifying information of individual employees referred to therein;

shall not appear in such copy or on any record published, released, or made available by the commissioner. The commissioner shall make the inspection, or shall reply in writing within twenty (20) days giving the reasons why the commissioner is not making the requested inspection. In the event a requested inspection is made, and no safety order issued, the commissioner must reply in writing within twenty (20) days giving the reason for the decision. I.C. 22-8-1.1-24.1(a).

The teacher or teacher's representative, after receipt of the commissioner's reply, or upon the failure of the commissioner to reply, may request informal review of the request for an inspection, or after inspection, upon the refusal to issue a safety order, by filing a written request for such informal review with the commissioner. Within twenty (20) days of receipt of the request, informal review shall commence with a final decision to be rendered within ten (10) days thereafter. I.C. 22-8-1.1-24.1(b).

Whenever the commissioner of labor is of the opinion that imminent danger exists in a teacher's workplace, which condition can reasonably be expected to cause death or serious physical harm, the commissioner, through the Attorney General, may petition the circuit court of the county in which such workplace is located for appropriate relief. Any order issued under I.C. 22-8-1.1-39.1 may require steps to be taken as may be necessary to avoid, correct, or remove the imminent danger and prohibit the employment or presence of any individual in locations or under conditions where the imminent danger exists, except individuals whose presence is necessary to avoid, correct, or remove the imminent danger or to maintain the capacity of a continuous process operation to resume normal operations without a complete cessation of operations, or where a cessation of operations is necessary, to permit cessation to be accomplished in a safe and orderly manner. I.C. 22-8-1.1-39.1(a).

Whenever and as soon as an inspector concludes that conditions or practices described above exist in a teacher's place of employment, he shall inform the affected employers and employees of the danger and that he is recommending to the commissioner that relief be sought. I.C. 22-8-1.1-39.1(b).

Should the commissioner arbitrarily or capriciously fail to seek relief where imminent danger in the workplace is reasonably believed to exist, a teacher who is injured by reason of such failure or the teacher's representative may seek a writ of mandamus in a civil court with jurisdiction to compel the commissioner to act. I.C. 22-8-1.1-39.1(c).

DISCIPLINARY POWERS OF TEACHERS *Back*

A teacher who has students under his or her charge may take any actions that are reasonably necessary to carry out or to prevent an interference with an educational function that the teacher supervises. Removal from class should be a last resort and should last only as long as necessary to control the student and secure appropriate interventions and supports, consistent with positive discipline practices.

If a teacher removes a student from a class, the principal may place the student in another appropriate class or placement or into in-school suspension. The principal may not return the student to the class from which the student was removed until the

principal has met with the student, the student's teacher, and the student's parents to determine an appropriate behavior plan for the student. If the student's parents do not meet with the principal and the student's teacher within a reasonable amount of time, the student may be moved to another class at the principal's discretion. I.C. 20-33-8-9; I.C. 20-33-8-25.

In all matters relating to discipline and the conduct of students, a teacher stands in the relation of a parent to a student and has the right to take any disciplinary action necessary to promote student conduct that conforms with an orderly and effective educational system. The teacher will have qualified immunity for any disciplinary action taken to promote student conduct where the action was taken in good faith and was reasonable. I.C. 20-33-8-8(b).

STUDENT EDUCATION RECORD PRIVACY ***Back***

For more information on Family Policy Compliance, see

http://www2.ed.gov/policy/gen/guid/fpco/index.html

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of student education records. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education. Parents or eligible students have the right to inspect and review the student's education records maintained by the school. Generally, schools (including their teachers) must have written permission from the parent or eligible student in order to release any personally identifiable information from a student's education record. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions:

- school officials with legitimate educational interest;
- other schools to which a student is transferring;
- specified officials for audit or evaluation purposes;
- appropriate parties in connection with financial aid to a student;
- organizations conducting certain studies for or on behalf of the school;
- accrediting organizations;
- to comply with a judicial order or lawfully issued subpoena;
- appropriate officials in cases of health and safety emergencies; and
- state and local authorities, within a juvenile justice system, pursuant to specific state law (see I.C. 20-33-7-3).

Schools may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, schools must inform parents and eligible students what constitutes directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about them.

20 U.S.C. § 1232g; 34 C.F.R. Part 99.

FERPA is incorporated into the Individuals with Disabilities Education Act (IDEA), which adds additional protection and procedures, including the confidentiality of certain personally identifiable information, training of staff, record keeping, and destruction of records.

20 U.S.C. § 1417(c); 34 C.F.R. §§ 300.610-300.627; 511 I.A.C. 7-38-1 through 7-38-3.

ROLE OF STATE BOARD ***Back***

The State Board of Education may adopt rules in order to, among other things, set standards for teacher licensing, approve or disapprove teacher preparation programs, set fees in connection with teacher licensing, and suspend, revoke, or reinstate teacher licenses. I.C. 20-28-2-6.

TEACHER EVALUATIONS ***Back***

For more information on teacher evaluations, see:

http://www.doe.in.gov/evaluations ***or contact the Indiana Department of Education at 317-232-6610.***

Evaluation plans must be discussed with the teacher's union prior to implementation. I.C. 20-28-11.5-4(e); I.C. 20-29-6-7.

If the Department of Education (DOE) requests a school corporation to submit a plan under I.C. 20-28-11.5-8(c) (for the school's own or substantially modified model plan), prior to submitting the plan, the governing body (usually the school board) must submit the staff performance evaluation plan to the teachers employed by the school corporation for a vote. If at least 75% of the voting teachers vote in favor of adopting the staff performance evaluation plan, the school board may submit the plan to the DOE. I.C. 20-28-11.5-8(c).

The evaluator must discuss the evaluation with the teacher. I.C. 20-28-11.5-4(f).

A teacher who does not receive a raise/increment due to being rated "ineffective" or "needs improvement" may file a request with the superintendent (or designee) not later than five days after receiving notice that the teacher received such a rating. The teacher is entitled to a private conference with the superintendent (or designee). I.C. 20-28-9-1.5(g).

A report of the aggregate staff performance evaluations must be discussed with the teacher's exclusive representative prior to submission to the school board. I.C. 20-28-11.5-9(a). I.C. 20-29-6-7.

While a plan for performance evaluations may be discussed, it is not subject to bargaining. Selection of a performance evaluation model is at the discretion of the school corporation, but the developed plan must be reported to the DOE and the Indiana Education Employment Relations Board (IEERB) in a timely manner, as established by the DOE. The DOE may review the plan for efficacy, and the IEERB may review the plan for legality, and both may comment to the school corporation. The DOE shall annually present to the State Board of Education plans selected by the school corporations. The State Board may recommend model plans to school corporations, but the State Board shall not mandate any plan. I.C. 20-28-11.5-8.5.

Each school corporation shall develop a plan for annual performance evaluations for each teacher. Instead of developing its own staff performance evaluation plan, a school corporation may adopt a staff performance evaluation plan that meets the requirements set forth in I.C. 20-28-11.5-4 or any of the following models:

(1) A plan using master teachers or contracting with an outside vendor to provide master teachers.
(2) The System for Teacher and Student Advancement (TAP).
(3) The Peer Assistance and Review Teacher Evaluation System (PAR).

A plan must include the following components:

(1) Performance evaluations for all teachers, conducted at least annually.
(2) Objective measures of student achievement and growth to significantly inform the evaluation. The objective measures must include:

    (A) student assessment results from statewide assessments for teachers whose responsibilities include instruction in subjects measured in statewide assessments;
    (B) methods for assessing student growth for teachers who do not teach in areas measured by statewide assessments; and
    (C) student assessment results from locally developed assessments and other test measures for teachers whose responsibilities may or may not include instruction in subjects and areas measured by statewide assessments.

(3) Rigorous measures of effectiveness, including observations and other performance indicators.
(4) An annual designation of each teacher in one (1) of the following rating categories:

    (A) Highly effective.
    (B) Effective.
    (C) Improvement necessary.
    (D) Ineffective.

(5) An explanation of the evaluator's recommendations for improvement and the time in which improvement is expected.
(6) A provision that a teacher who negatively affects student achievement and growth cannot receive a rating of highly effective or effective.
(7) For annual performance evaluations for school years beginning after June 30, 2015, provide for a pre-evaluation planning session conducted by the superintendent or equivalent authority for the school corporation with the principals in the school corporation.

In developing a performance evaluation model, a school corporation may consider test scores of students (both formative and summative), classroom presentation observations, observation of student-teacher interaction, knowledge of subject matter, dedication and effectiveness of the teacher through time and effort on tasks, contributions of teachers through group teacher interactivity in fulfilling the school improvement plan, cooperation of the teacher with supervisors and peers, extracurricular contributions of the teacher, outside performance evaluations, compliance with school corporation rules and procedures, and other items considered important by the school corporation in developing each student to the student's maximum intellectual potential and performance. The State Board and the DOE may recommend additional factors, but neither may require additional factors unless directed to do so by the General Assembly (the state legislature).

The plan must be both in writing and explained to the governing body in a public meeting before the evaluations are conducted. Before explaining the plan to the governing body, the superintendent of the school corporation shall discuss the plan with teachers or the teachers' representative, if there is one. This discussion is not subject to the open door law (I.C. 5-14-1.5). The plan is not subject to bargaining, but a discussion of the plan must be held. I.C. 20-28-11.5-4.

Confidentiality *Back*

Information that contains teacher evaluation results that identify a teacher or that makes a teacher's identify easily traceable is confidential and exempt from disclosure requirements under I.C. 5-14-3-4. I.C. 20-28-3-0.5.

Documentation; remediation plan; private conference *Back*

A copy of the completed evaluation, including any documentation related to the evaluation, must be provided to a teacher not later than seven (7) days after the evaluation is conducted.

If a teacher receives a rating of ineffective or improvement necessary, the evaluator and the teacher shall develop a remediation plan of not more than ninety (90) school days in length to correct the deficiencies noted in the teacher's evaluation. The remediation plan must require the use of the teacher's license renewal credits in professional development activities intended to help the teacher achieve an effective rating on the next performance evaluation. If the principal did not conduct the performance evaluation, the principal may direct the use of the teacher's license renewal credits under this subsection.

A teacher who receives a rating of ineffective may file a request for a private conference with the superintendent or the superintendent's designee not later than five (5) days after receiving notice that the teacher received a rating of ineffective. The teacher is entitled to a private conference with the superintendent or superintendent's designee.

I.C. 20-28-11.5-6

Probationary, Professional Teachers *Back*

An established teacher (who, before July 1, 2012, both served under contract as a teacher in a public school corporation and entered into a teacher's contract for further service with the school corporation) is exempt from the following two paragraphs. I.C. 20-28-6-7.5. I.C. 20-28-6-8.

A teacher who
(1) serves under contract as a teacher in a public school corporation; and
(2) has not received an evaluation rating, receives a rating of ineffective, or has not received three (3) ratings in a five (5) year period of effective or highly effective in an evaluation under I.C. 20-28-11.5,

shall be considered a probationary teacher. A teacher who receives a rating of effective, highly effective, or a combination of effective and highly effective for at least three (3) years in a five (5) year or shorter period becomes a professional teacher by entering into a contract (that meets the requirements of I.C. 20-28-6-2) with a school corporation.

A professional teacher who receives a rating of ineffective shall be considered a probationary teacher but is not subject to cancellation of the teacher's contract unless:
(1) the teacher receives a rating of ineffective in the year immediately following the teacher's initial rating of ineffective,
(2) the teacher's contract cancellation is due to a justifiable decrease in the number of teaching positions, or
(3) the teacher's contract cancellation is due to immorality, insubordination (as defined by I.C. 20-28-7.5-1(b)(2)), incompetence (as defined by I.C. 20-28-7.5-1(b)(3)), neglect of duty, a conviction of an offense listed in I.C. 20-28-5-8(c), or other good or just cause.

I.C. 20-28-6-7.5; I.C. 20-28-7.5-1(b)

CONTINUING EDUCATION

Back

A school corporation may adjourn its schools for not more than three (3) days in a school year to allow teachers to participate in agricultural instruction, a meeting of a teachers' association, visitation of model schools, or a basic or in-service course of education and training on autism, mental health first aid, or prevention of child suicide. I.C. 20-28-3-4.

LICENSE REVOCATION AND REINSTATEMENT

Back

For more information on teacher licensing, see:

http://www.doe.in.gov/licensing ***or contact the Indiana Department of Education at 317-232-9010.***

On the written recommendation of the State Superintendent of Public Instruction, the DOE may, after conducting a hearing, suspend or revoke a license for immorality, misconduct in office, incompetency, or willful neglect of duty. I.C. 20-28-5-7; I.C. 4-21.5-3 *et seq*.

The DOE shall permanently revoke the license of a teacher who is known by the department to have been convicted of a felony, as listed in I.C. 20-28-5-8, including kidnapping; criminal confinement; rape; criminal deviate conduct; child molesting, exploitation, solicitation, and seduction; sexual misconduct with a minor; vicarious sexual gratification; incest; dealing in or manufacturing cocaine or a narcotic drug; dealing in methamphetamine, a schedule I, II, III, IV, or V controlled substance, counterfeit substance, marijuana, hash oil, hashish, salvia, or synthetic drug or synthetic drug lookalike substance; possession of child pornography; homicide; voluntary manslaughter; reckless homicide; battery as a Class A, B, or C felony; aggravated battery; robbery; carjacking; arson as a Class A or B felony; human trafficking; burglary as a Class A or B felony; attempt to commit an offense here listed; or conspiracy to commit an offense here listed. I.C. 20-28-5-8.

The DOE may, after holding a hearing on the matter, reinstate the license revoked under I.C. 20-28-5-8 if the teacher's conviction has been reversed, vacated, or set aside on appeal. I.C. 20-28-5-8.5.

LICENSE RECORDS

Back

The department shall keep a record of all teacher licenses issued, and for each licensed teacher employed by the school corporation, the superintendent of a school corporation shall register and keep a record of the type of license held by the teacher, the teacher's date of first employment, and the teacher's annual or monthly salary. I.C. 20-28-5-10.

CONTRACTS – IN GENERAL

Back

For more information on school corporation contracts, see: https://www.doe.in.gov/legal/contracts

A contract entered into by a teacher and a school corporation must:

(1) be in writing;
(2) be signed by both parties; and
(3) contain the following:
    a. the beginning date of, and number of days in, the school term as determined annually by the school corporation;
    b. the total salary to be paid to the teacher during the school year;
    c. the number of salary payments to be made to the teacher during the school year; and
    d. the number of hours per day the teacher is expected to work, as discussed pursuant to I.C. 20–29–6–7.

The contract may provide for the annual determination of the teacher's annual compensation based on a local compensation plan specifying a salary range, which is part of the contract. The compensation plan may be changed by the school corporation before May 1 of a year, with the changes effective the next school year, or the date specified in a collective bargaining agreement applicable to the next school year. A teacher affected by the changes shall be furnished with printed copies of the changed compensation plan not later than thirty (30) days after the adoption of the compensation plan. The contracts are public records open to inspection by the residents of each school corporation. A legal action may be brought on a contract.

I.C. 20-28-6-2.

Regular Teacher's Contract

Back

A regular teacher's contract must include the manner of salary payment and any provisions relating to the government of the school that the state superintendent includes. I.C. 20-28-6-5

Temporary Teacher's Contract

Back

A temporary teacher's contract shall be used only for employing

(1) a teacher to serve in the absence of a teacher who has been granted a leave of absence by the school corporation for engaging in defense (or auxiliary) service, professional study or advancement, exchange teaching, extended disability, or serving in the General Assembly; or
(2) a new teacher for a position that is
    a. funded by a grant outside the school funding formula for which funding is available only for a specified period or purpose, or
    b. vacated by a teacher who is under a regular contract and who temporarily accepts a teacher position funded by such a grant.

The temporary teacher's contract must contain the following:

(1) the provisions of the regular teacher's contract except those providing for continued tenure of position,
(2) a blank space for the name of the teacher granted the leave, and
(3) an expiration date that is the date of the return of the teacher on leave and is not later than the end of the school year.

I.C. 20-28-6-6

If a teacher is employed on the temporary teacher's contract for at least sixty (60) days in a school year, the teacher may, on request, receive the service credit that the teacher would otherwise receive regarding the Indiana state teachers' retirement fund. I.C. 20-28-6-6(c).

A school corporation is not required to use a temporary teacher's contract for employing a teacher to serve in the absence of a teacher who has been granted a leave of absence. I.C. 20-28-6-6(d).

Supplemental Service Teacher's Contract

A supplemental service teacher's contract is used where a teacher provides professional services in evening school or during summer school employment. This does not include employment to supervise or conduct noncredit courses or activities. For the purpose of the supplemental service teacher's contract, "teacher" includes a person who holds a substitute teacher's license and provides instruction in a joint summer school program under I.C. 20-30-7-5. The teacher's salary on a supplemental service contract is determined by the superintendent.

I.C. 20-28-6-7

Contract Cancellation or Discontinuance

Back

A contract with a teacher may be canceled immediately for any of the following reasons:

(1) Immorality.
(2) Insubordination, which means a willful refusal to obey the state school laws or reasonable rules adopted for the governance of the school building or the school corporation.
(3) Incompetence, including:

    (A) for probationary teachers, receiving an ineffective designation on a performance evaluation or receiving two (2) consecutive improvement necessary ratings on a performance evaluation under I.C. 20–28–11.5; or
    (B) for any teacher, receiving an ineffective designation on two (2) consecutive performance evaluations or an ineffective designation or improvement necessary rating under I.C. 20–28–11.5 for three (3) years of any five (5) year period.

(4) Neglect of duty.
(5) A conviction of an offense listed in I.C. 20–28–5–8.
(6) Other good or just cause.

I.C. 20-28-7.5-1(b)

In addition to the reasons set forth above, a probationary teacher's contract may be canceled for any reason relevant to the school corporation's interest. I.C. 20-28-7.5-1(c).

The cancellation of teacher's contracts due to a justifiable decrease in the number of teaching positions shall be determined on the basis of performance rather than seniority.[1] In cases where teachers are placed in the same performance category, any of the following items may be considered:

(1) the number of years of a teacher's experience.
(2) the possession of either:

    a. additional content area degrees beyond the requirements for employment; or
    b. additional content area degrees and credit hours beyond the requirements for employment, if required under an agreement bargained under I.C. 20-29,

(3) the results of an evaluation conducted under I.C. 20-28-11.5,
(4) the assignment of instructional leadership roles, including the responsibility for conducting evaluations under I.C. 20-28-11.5,
(5) the academic needs of students in the school corporation.

I.C. 20-28-7.5-1

Cancellation of a teacher's contract must comply with sections 2 through 4 of I.C. 20-28-7.5, which are reproduced below and prescribe notice, conference, meeting, decision, and extension requirements.

Before a teacher's contract is canceled, the teacher has the following rights:

(1) The principal or superintendent shall notify the teacher of the principal's or superintendent's preliminary decision. The notification must be:
    (A) in writing; and
    (B) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address.
(2) The notice in subdivision (1) must include a written statement, subject to I.C. 5–14–3–4, giving the reasons for the preliminary decision.
(3) Notification due to a reduction in force must be delivered between May 1 and July 1.

I.C. 20-28-7.5-2(a)

For a cancellation of a teacher's contract for a reason other than a reduction in force, the above-mentioned notice must inform the teacher that, not later than five (5) days after the teacher's receipt of the notice, the teacher may request a private conference with the superintendent or the assistant superintendent. The superintendent or the assistant superintendent, as applicable, must set the requested meeting not later than ten (10) days after the request. At the conference between the superintendent or assistant superintendent, as applicable, and the teacher, the teacher may be accompanied by a representative. After the conference between the superintendent or the assistant superintendent, as applicable, and the teacher, the superintendent or the assistant superintendent shall make a written recommendation to the governing body of the school corporation regarding the cancellation of the teacher's contract. If the teacher does not request a conference, the principal's or the superintendent's preliminary decision is considered final. I.C. 20-28-7.5-2(b)-(e).

If a probationary, professional, or established teacher files a request with the school corporation for an additional private conference not later than five (5) days after the initial private conference with the superintendent or the assistant superintendent, as applicable, the teacher is entitled to an additional private conference with the governing body of the school corporation before the governing body makes a final decision. The final decision must be in writing and must be made not more than thirty (30) days after the governing body receives the teacher's request for the additional private conference. At the private conference the governing body shall do the following:

(1) Allow the teacher to present evidence to refute the reason or reasons for contract cancellation and supporting evidence provided by the school corporation. Any evidence presented at the private conference must have been exchanged by the parties at least seven (7) days before the private conference.

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[1] In *Elliott v. Board of Trustees of Madison Consolidated Schools*, 876 F.3d 926 (7th Cir. 2017), *cert. den.*, __ S. Ct. __ 2018 WL 1243305 (June 11, 2018), the Court found that I.C. 20-28-7.5-1(d) to be unconstitutional as applied to teachers who obtained tenure prior to the effective date of the statute. Part of their contractual right is that they be retained over non-tenured teachers during a reduction in force (RIF).

(2) Consider whether a preponderance of the evidence supports the cancellation of the teacher's contract.

I.C. 20-28-7.5-2(f)

At the first public meeting following a private conference with the governing body of the school corporation or superintendent (if no conference with the governing body is requested), the governing body may cancel a contract with a teacher by a majority vote evidenced by a signed statement in the minutes of the board. The governing body's decision is final. I.C. 20-28-7.5-3.

Pending a final decision on the cancellation of a teacher's contract, the teacher may be suspended from duty. I.C. 20-28-7.5-4.

The time periods concerning notice and private conferences set out by I.C. 20-28-7.5-2 shall be extended for a reasonable period when a teacher or a school official is ill or absent from the school corporation or for other reasonable cause. I.C. 20-28-7.5-5.

Contract Continuance *Back*

A contract entered into by a teacher and a school employer continues in force on the same terms and for the same wages, unless increased under I.C. 20-28-9-1.5 (described below) for the next school term following the date of the contract's termination unless one of the following occurs:

(1) The school corporation refuses continuation of the contract under this chapter.
(2) The teacher delivers in person or by registered or certified mail to the school corporation the teacher's written resignation.
(3) The contract is replaced by another contract agreed to by the parties.

IC 20-28-7.5-6

Void Contracts *Back*

A contract between a school corporation and a teacher is void if the teacher, at the time of signing the contract, is bound by a previous contract to teach in a public school and the contract is entered into less than fourteen (14) days before the day on which the teacher must report for work at that school. However, another contract may be signed by the teacher that will be effective if the teacher:

(1) furnishes the principal a release by the first employer; or
(2) shows proof that thirty (30) days written notice was delivered by the teacher to the first employer.

A principal may request from a teacher, at the time of contracting, a written statement addressing whether the teacher has signed another teaching contract. However, the teacher's failure to provide the statement is not a cause for subsequently voiding the contract.[2]

I.C. 20-28-7.5-8

TEACHER PAYMENTS & SALARY INCREASES *Back*

For more information on compensation plans and models, see:

http://www.in.gov/ieerb ***or contact the Indiana Education Employment Relations Board at 317-233-6620.***

Sick Days; Death in Family *Back*

Each teacher may be absent from work with pay:

(1) on account of illness or quarantine for ten (10) days the first year and seven (7) days in each succeeding year (referred to as "sick days"); and
(2) for death in the teacher's immediate family for a period extending not more than five (5) days beyond the death.

I.C. 20-28-9-9(a)

If the teacher does not use all the teacher's sick days in a school year, the teacher is entitled to accumulate a total of ninety (90)

[2] This paragraph does not apply to an individual who works at a conversion charter school (as defined in I.C. 20-24-1-5) for purposes of the individual's employment with the school corporation that sponsored the conversion charter school.

days. I.C. 20-28-9-9(b).

Whenever a teacher accumulates at least one (1) sick day and then is employed in another school corporation, beginning in the teacher's second year, the teacher's employer shall add up to three (3) sick days each year to the number of sick days to which the teacher is entitled under I.C. 20-28-9-9(a) (listed above) until the accumulated sick days to which the teacher was entitled in the teacher's last employment are exhausted. I.C. 20-28-9-10.

A school corporation may establish a voluntary sick day bank:

(1) to which a teacher may contribute unused sick days; and
(2) from which a contributing teacher may draw sick days when the contributing teacher's accumulated sick days are exhausted.

I.C. 20-28-9-13

Other Absences *Back*

Absences other than those taken for a death in the family or sick days may be taken with pay when agreed on by the school employer and the teacher's union representative under I.C. 20-29. I.C. 20-28-9-11.

Each teacher may have at least two (2) days each year with pay for the transaction of personal business or the conduct of personal or civic affairs. The teacher shall submit to the superintendent a written statement describing the reason and necessity for the absence. I.C. 20-28-9-14.

School Closure *Back*

If during the term of the teacher's contract:

(1) the school is closed by order of the school corporation or health authorities, or
(2) school cannot be conducted through no fault of the teacher;

the teacher shall receive regular payments during that time. If a canceled student instructional day is rescheduled to comply with the statutory minimum number per year, each teacher shall work on that rescheduled day without additional compensation. I.C. 20-28-9-15.

A school may be closed for up to two (2) weeks for Christmas holidays without payment of teachers' salaries. Closing the school for Christmas holidays does not shorten the length of the school term. I.C. 20-28-9-16.

The governing body of a school city may pay the salary of teachers for Saturdays in addition to the other days that school is in session. I.C. 20-28-9-17.

Local Salary Scale Increases *Back*

Compensation attributable to additional degrees or graduate credits earned before the effective date of a local compensation plan created under this chapter before July 1, 2015, shall continue for school years beginning after June 30, 2015. Compensation attributable to additional degrees for which a teacher has started course work before July 1, 2011, and completed course work before September 2, 2014, shall also continue for school years beginning after June 30, 2015. For school years beginning after June 30, 2015, a school corporation may provide a supplemental payment to a teacher in excess of the salary specified in the school corporation's compensation plan under any of the following circumstances:

(1) The teacher:
    (A) teaches an advanced placement course or a Cambridge International course; or
    (B) has earned a master's degree from an accredited postsecondary educational institution in a content area directly related to the subject matter of:
        (i) a dual credit course; or
        (ii) another course;
    taught by the teacher.
(2) Beginning after June 30, 2018, the teacher:
    (A) is a special education professional; or
    (B) teaches in the areas of science, technology, engineering, or mathematics.

In addition, a supplemental payment may be made to an elementary school teacher who earns a master's degree in math, reading, or literacy. A supplement provided under this subsection is not subject to collective bargaining, but a discussion of the

supplement must be held. Such a supplement is in addition to any increase permitted under I.C. 20-28-9-1.5 (b) (reproduced below).

I.C. 20-28-9-1.5(a)

Increases or increments in a local salary range must be based upon a combination of the following factors:

(1) A combination of the following factors taken together may account for not more than thirty-three and one third percent (33.33%) of the calculation used to determine a teacher's increase or increment:

(A) The number of years of a teacher's experience.
(B) The possession of either:

(i) additional content area degrees beyond the requirements for employment; or
(ii) additional content area degrees and credit hours beyond the requirements for employment, if required under an agreement bargained under I.C. 20–29.

(2) The results of an evaluation conducted under I.C. 20–28–11.5.
(3) The assignment of instructional leadership roles, including the responsibility for conducting evaluations under I.C. 20–28–11.5.
(4) The academic needs of students in the school corporation. I.C. 20-28-9-1.5.

I.C. 20-28-9-1.5(b)

To provide greater flexibility and options, a school corporation may differentiate the amount of salary increases or increments determined for teachers under I.C. 20-28-9-1.5(b)(4). A school corporation shall base a differentiated amount under this subsection on any academic needs the school corporation determines are appropriate, which may include the:

(1) subject or subjects, including the subjects described in subsection (a)(2), taught by a given teacher;
(2) importance of retaining a given teacher at the school corporation; and
(3) need to attract an individual with specific qualifications to fill a teaching vacancy.

I.C. 20-28-9-1.5(c)

A school corporation may provide differentiated increases or increments under I.C. 20-28-9-1.5 (b), and in excess of the percentage specified in subsection I.C. 20-28-9-1.5 (b)(1), in order to reduce the gap between the school corporation's minimum teacher salary and the average of the school corporation's minimum and maximum teacher salaries.

I.C. 20-28-9-1.5(d)

A teacher rated ineffective or improvement necessary under I.C. 20-28-11.5 may not receive any raise or increment for the following year if the teacher's employment contract is continued. This provision does not apply to a teacher in the first two (2) full school years that the teacher provides instruction to students in elementary school or high school. If a teacher provides instruction to students in elementary school or high school in another state, any full school year, or its equivalent in the other state, that the teacher provides instruction counts toward the two (2) full school years under this statute. The amount that would otherwise have been allocated for the salary increase of teachers rated ineffective or improvement necessary shall be allocated for compensation of all teachers rated effective and highly effective based on the criteria in the above paragraph. A teacher rated ineffective or improvement necessary under I.C. 20–28–11.5 who does not receive a raise or increment may file a request with the superintendent or superintendent's designee not later than five (5) days after receiving notice that the teacher received a rating of ineffective. The teacher is entitled to a private conference with the superintendent or superintendent's designee. I.C. 20-28-9-1.5(e)-(g).

The IEERB shall publish a model compensation plan with a model salary range that a school corporation may adopt.
Each school corporation shall submit its local compensation plan to the IEERB. For a school year beginning after June 30, 2015, a local compensation plan must specify the range for teacher salaries. The IEERB shall publish the local compensation plans on the IEERB's Internet web site. I.C. 20-28-9-1.5(h), (i).

A school corporation is not permitted to decrease the salary of any teacher below the salary the teacher was earning on or before July 1, 2015, if that decrease would be made solely to conform to the new compensation plan. I.C. 20-28-9-1.5(k).

Withholdings, Retirement, Severance Pay: *Back*

Upon a teacher's written request, a school corporation shall withhold the requested amount of money from the salary of the teacher for insurance or other protection, or for the establishment of or payment on an annuity account. Upon a written request from a beneficiary of the Indiana state teachers' retirement fund, a school corporation may receive a given amount of

money for these purposes. The school corporation shall hold and pay the amounts, as requested by the teacher or the beneficiary, to an insurance company or other agency or organization in Indiana that provides, extends, supervises, or pays for:

(1) insurance or other protection; or
(2) the establishment of or payment on an annuity account; for the teacher.

If a dividend accrues on a policy, the dividend shall be paid or credited to the teacher. If less than twenty percent (20%) of the teachers employed by a school corporation request payment of the amounts described above for insurance or annuity accounts to a single recipient, withholding the amounts of money for insurance, dues, or other purposes is discretionary with the governing body. I.C. 20-28-9-18.

If a school corporation agrees to a retirement, savings, or severance pay plan with a teacher or with an exclusive representative under I.C. 20-29, the benefits may be paid to:

(1) the teacher who is eligible under a negotiated retirement, savings, or severance pay plan; or
(2) in the case of the teacher's death:

(A) the teacher's designated beneficiary; or
(B) the teacher's estate, if there is no designated beneficiary.

Payments may be made in a lump sum or in installments as agreed upon by the parties or to a savings plan established under I.C. 5-10-1.1-1(2). These payments shall be made from the general fund of the school corporation and may be made for a period exceeding one (1) year. I.C. 20-28-9-19.[3]

A teacher who is employed by a school corporation that provides a health insurance plan for its employees may participate in the health insurance plan upon retirement under I.C. 5-10-8. I.C. 20-28-9-20.

SUSPENSION WITHOUT PAY *Back*

A teacher may be suspended from duty without pay only for the following reasons:

(1) Immorality.
(2) Insubordination, which means the willful refusal to obey the state school laws or reasonable rules prescribed for the government of the school corporation.
(3) Neglect of duty.
(4) Substantial inability to perform teaching duties.
(5) Good and just cause.

I.C. 20-28-9-21

A teacher may be suspended without pay only under the following procedure:

(1) The principal shall notify the teacher of the principal's preliminary decision. The notification must be:

(A) in writing; and
(B) delivered in person or mailed by registered or certified mail to the teacher at the teacher's last known address.

(2) The notice in subdivision (1) must include a written statement, subject to I.C. 5–14–3–4, giving the reasons for the preliminary decision.

The required notice must inform the teacher that, not later than five (5) days after the teacher's receipt of the notice, the teacher may request a private conference with the superintendent. The superintendent must set the requested meeting not later than ten (10) days after the request. At the conference between the superintendent and the teacher, the teacher may be accompanied by a representative. After the conference between the superintendent and the teacher, the superintendent shall make a written recommendation to the school corporation regarding the teacher's suspension without pay. If the teacher does not request a conference, the principal's preliminary decision is considered final.

If, not later than five (5) days after the initial private conference with the superintendent, the teacher files a request with the governing body of the school corporation for an additional private conference, the teacher is entitled to an additional private

[3] Pursuant to Pub. L. 244-2017, Sec. 54, this version of I.C. 20-28-9-19 will be superseded by a revised version effective January 1, 2019.

conference with the governing body before the governing body makes a final decision. The final decision must be in writing and must be made not more than thirty (30) days after the governing body receives the teacher's request for the additional private conference. At the private conference, the governing body shall do the following:

(1) Allow the teacher to present evidence to refute the reason or reasons for suspension without pay and supporting evidence provided by the school corporation. Any evidence presented at the private conference must have been exchanged by the parties at least seven (7) days before the private conference.
(2) Consider whether a preponderance of the evidence supports the teacher's suspension without pay.

At the first public meeting following a private conference with the governing body or the superintendent (if no conference with the governing body is requested), the governing body may suspend a teacher without pay for a reasonable time by a majority vote evidenced by a signed statement in the minutes of the board. The decision of the governing body is final.

The time periods concerning notice and conferences shall be extended for a reasonable period when a teacher or school official is ill or absent from the school corporation or for other reasonable cause.

I.C. 20-28-9-22

LEAVES OF ABSENCE *Back*

A school corporation may grant a teacher a leave of absence not to exceed one (1) year for:

(1) a sabbatical;
(2) a disability leave; or
(3) a sick leave.

The school corporation may grant consecutive leaves to a teacher. A school corporation may grant partial compensation for a leave in an amount the school corporation determines. However, if a teacher on a sabbatical serves an employer that agrees to reimburse the school corporation in whole or in part of the amount of the teacher's regular salary, the school corporation may grant full or partial compensation.

A teacher who is pregnant shall be granted a leave of absence for the period provided in I.C. 20-28-10-5 (described below).

The teacher has the right to return to a teaching position for which the teacher is certified or otherwise qualified under the rules of the state board.

I.C. 20-28-10-1

Except for sabbatical, disability, or sick leave, rights existing at the time a leave commences that arise from a teacher's:
(1) status as a professional or established teacher;
(2) accumulation of successive years of service;
(3) service performed under a teacher's contract under I.C. 20–28–6–8; or
(4) status or rights negotiated under I.C. 20–29; remain intact.

I.C. 20-28-10-2

During a leave the teacher may maintain coverage in a group insurance program by paying the total premium including the school corporation's share, if any, attributable to the leave period. The school corporation may elect to pay all or part of the cost of the premium as an adopted or negotiated fringe benefit to teachers on leave.

During a leave extending into a part of a school year, a teacher accumulates sick leave under I.C. 20-28-9-9 through I.C. 20-28-9-12, or the salary range of the school corporation that provides greater sick leave, in the same proportion that the number of days the teacher is paid during the year for work or leave bears to the total number of days for which teachers are paid in the school corporation.

Except for sabbatical, disability, or sick leave, during a leave of a probationary teacher, the period of probationary successive years of service under a teacher's contract that is a condition for becoming a professional or established teacher under I.C. 20–28–6–8 is uninterrupted for that teacher. However, this probationary period may not include an entire school year spent on leave.

All or part of a leave granted for sickness or disability, including pregnancy related disability, may be charged at the teacher's

discretion to the teacher's available sick days. However, the teacher is not entitled to take accumulated sick days when the teacher's physician certifies that the teacher is capable of performing the teacher's regular teaching duties. The teacher is entitled to complete the remaining leave without pay. I.C. 20-28-10-2.

Sabbatical

Back

A school corporation may grant a teacher, on written request, a sabbatical for improvement of professional skills through advanced study, work experience, teacher exchange programs, or approved educational travel. After taking a sabbatical, the teacher shall return for a length of time equal to that of the sabbatical leave. I.C. 20-28-10-3.

Disability or Sick Leave

Back

A school corporation may place a teacher, with or without written request, on a disability or sick leave not to exceed one (1) year. A teacher placed on a disability or sick leave without a written request is entitled to a hearing on that action under I.C. 20-28-7.5. I.C. 20-28-10-4.

Pregnancy

Back

A teacher who is pregnant may continue in active employment as late into pregnancy as the teacher wishes, if the teacher can fulfill the requirements of the teacher's position. Temporary disability caused by pregnancy is governed by the following:

(1) A teacher who is pregnant shall be granted a leave of absence any time between the commencement of the teacher's pregnancy and one (1) year following the birth of the child, if the teacher notifies the superintendent at least thirty (30) days before the date on which the teacher wishes to start the leave. The teacher shall notify the superintendent of the expected length of this leave, including with this notice either:

(A) a physician's statement certifying the teacher's pregnancy; or
(B) a copy of the birth certificate of the newborn;

whichever is applicable. However, in the case of a medical emergency caused by pregnancy, the teacher shall be granted a leave immediately on the teacher's request and the certification of the emergency from an attending physician.

(2) All or part of a leave taken by a teacher because of a temporary disability caused by pregnancy may be charged, at the teacher's discretion, to the teacher's available sick days. However, the teacher is not entitled to take accumulated sick days when the teacher's physician certifies that the teacher is capable of performing the teacher's regular teaching duties. The teacher is entitled to complete the remaining leave without pay. However, the teacher may receive compensation for the pregnancy leave under a collective bargaining agreement or, if the teacher is not represented by teacher's union representative, by the school corporation's policy.

I.C. 20-28-10-5

Defense Service

Back

A professional or established teacher
(1) with an indefinite contract under IC 20-28-6-8; and
(2) who through volunteering or statutory selection enters defense service on a full-time basis;
is granted a leave of absence during the defense service.

I.C. 20-28-10-6, I.C. 20-28-10-7

On reinstatement, the status of the teacher is the same as when the teacher entered the defense service. All rights to changes of salary or position, except those concerning a probationary teacher (see I.C. 20-28-10-8), accrue to the teacher as if no interruption had occurred. I.C. 20-28-10-9.

The teacher retains his or her contractual rights in the Indiana state teachers' retirement fund. Contributions and payments into the retirement fund shall be made in the same manner as they are made for a member of the fund who is granted a leave of absence under the law pertaining to that fund. The teacher is granted a leave of absence during the defense service. I.C. 20-28-10-10.

Not later than sixty (60) days after an honorable or medical discharge or release from active participation in the defense service, a teacher who has received a leave of absence for defense service shall return to the school corporation for reinstatement. The school corporation shall then reinstate the teacher. If the teacher is unable to return for reinstatement within the sixty (60) day period for any reason arising from mental or physical disability, the teacher has sixty (60) days after

the date of removal of the disability to apply for reinstatement. On reinstatement or on written resignation submitted to the school corporation, the teacher's leave of absence and defense service is considered terminated. I.C. 20-28-10-11.

ANTI-DISCRIMINATION *Back*

For more information on anti-discrimination laws and unfair labor practices, see:

http://www2.ed.gov/policy/landing.jhtml?src=pn

https://www2.ed.gov/about/offices/list/ocr/docs/hq53e8.html (Office for Civil Rights)

http://www.in.gov/ieerb ***or contact the Indiana Education Employment Relations Board at 317-233-6620.***

Federal Law *Back*

Because Indiana schools receive federal funding from the U.S. Department of Education, the following federal laws apply to Indiana teachers.

Disability: Section 504 of the Rehabilitation Act of 1973 prohibits discrimination based on disability in programs or activities receiving federal financial assistance, and Title II of the Americans with Disabilities Act of 1990 prohibits discrimination based on disability in public entities. Both Section 504 and Title II prohibit employment discrimination, harassment because of a disability, and retaliation for advocating for a right protected by the two laws or filing a complaint with the Office for Civil Rights (OCR) or the Equal Employment Opportunity Commission (EEOC). 34 C.F.R. Part 104; 28 C.F.R. Part 35.

Sex: Title IX of the Educational Amendments of 1972 prohibits discrimination based on sex in education programs and activities that receive federal financial assistance. Title IX also prohibits employment discrimination as well as retaliation for advocating for a right protected by Title IX or filing a complaint with the OCR. 34 C.F.R. Part 106.

Race and National Origin: Title VI of the Civil Rights Act of 1964 prohibits discrimination based on race, color, or national origin in programs or activities receiving federal financial assistance. Examples of discrimination covered by Title VI include racial harassment and school segregation, and Title VI also prohibits retaliation for filing an OCR complaint or for advocacy for a right protected by the regulation. Because protection against employment discrimination under Title VI is limited, most complaints to OCR concerning race, color, or national-origin discrimination are referred to the EEOC. 34 C.F.R. Part 100.

Sex, Religion, and National Origin: Title VII of the Civil Rights Act of 1964 prohibits employment discrimination on the basis of sex (including pregnancy and gender identity), religion, and national origin. Title VII also prohibits retaliation because an employee complained about discrimination, filed a charge of discrimination, or participated in the investigation or litigation of alleged employment discrimination. Complaints are filed with the EEOC. 42 U.S.C. § 2000e *et seq.*

Age: The Age Discrimination in Employment Act of 1967 (ADEA) prohibits employment discrimination against anyone at least 40 years of age. The ADEA also prohibits the denial or reduction of benefits to older employees based on their age and, in many employment sectors, forbids establishment of a mandatory retirement age. Claims under the ADEA are filed with the EEOC. 29 U.S.C. § 621 *et seq.*

State Law *Back*

Discriminatory Practice: State labor and safety law defines "discriminatory practice" as:

(1) the exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;
(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;
(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry; or
(4) a violation of I.C. 22-9-5 (Employment Discrimination Against Disabled Persons).

I.C. 22-9-1-3

Marital Status: A school corporation or its agent may not make or enforce a rule or regulation concerning the employment of teachers that discriminates because of marital status. I.C. 20-28-10-12.

Residence: A school corporation may not adopt residence requirements for teachers or other school employees in the school corporation's employment, assignment, or reassignment for services in a prescribed area. I.C. 20-28-10-13.

Race and National Origin: A state educational institution may not discriminate in any way in the hiring, upgrading, tenure, or placement of any teacher on the basis of race, creed, color, or national origin. I.C. 21-40-2-7.

Disability: An employer may not discriminate against a qualified individual with a disability because of the disability of that individual in regard to any of the following:

(1) Job application procedures.
(2) The hiring, advancement, or discharge of employees.
(3) Employee compensation.
(4) Job training.
(5) Other terms, conditions, and privileges of employment.

I.C. 22-9-5-19

However, it may be a defense to a charge of discrimination that an alleged application of qualification standards, tests, or selection criteria that screen out or tend to screen out or otherwise deny a job or benefit to an individual with a disability has been shown to be job related and consistent with business necessity, and performance cannot be accomplished by reasonable accommodation, as required under this chapter. Qualification standards may include a requirement that an individual shall not pose a direct threat to the health or safety of other individuals in the workplace. I.C. 22-9-5-21.

The prohibition against discrimination in employment because of disability does not apply to failure of an employer to employ or to retain as an employee any person who because of a disability is physically or otherwise unable to efficiently and safely perform, at the standards set by the employer, the duties required in that job. After a person with a disability is employed, the employer shall not be required to promote or transfer such person with a disability to another job or occupation, unless, prior to such transfer, such person with a disability by training or experience is qualified for such job or occupation. I.C. 22-9-1-13.

Age: It is an unfair employment practice and against public policy to dismiss from employment, or to refuse to employ or rehire, any person solely because of his age if such person has attained the age of forty (40) years and has not attained the age of seventy-five (75) years. I.C. 22-9-2-2.

Tobacco Use: An employer may not:

(1) require, as a condition of employment, an employee to refrain from using; or
(2) discriminate against an employee with respect to:

(A) the employee's compensation and benefits; or
(B) terms and conditions of employment;

based on the employee's use of;

tobacco products outside the course of the employee's employment.

However, an employer may implement financial incentives intended to reduce tobacco use and related to employee health benefits provided by the employer.

I.C. 22-5-4-1

FREEDOM OF ASSOCIATION, CANDIDATE FOR PUBLIC OFFICE, & SERVICE IN THE GENERAL ASSEMBLY ***Back***

A school corporation may not dismiss or suspend a teacher because of affiliation with or activity in an organization unless that organization advocates

(1) the overthrow of the United States government by force or the use of violence, or
(2) the violation of law,

to achieve its objective.

I.C. 20-28-10-14

A school corporation may not dismiss, suspend, or enforce a mandatory leave of absence on a teacher who is a candidate for public office unless evidence is submitted to the school corporation that would substantiate a finding that the teacher's activity

has: (1) impaired the teacher's effectiveness in the teacher's service; or (2) interfered with the performance of the teacher's contractual obligations. A suspension is valid only during the period of the impairing activity.

I.C. 20-28-10-15

If a teacher serves in the General Assembly, the teacher shall be given credit for the time spent in this service, including the time spent for council or committee meetings. The leave for this service does not diminish the teacher's rights under the Indiana state teachers' retirement fund or the teacher's advancement on the state or local compensation plan. For these purposes, the teacher is, despite the leave, considered teaching for the school during that time. The compensation received while serving in the general assembly shall be included for teachers retiring after June 30, 1980, in the determination of the teacher's annual compensation to compute the teacher's retirement benefit under I.C. 5–10.2–4. A teacher serving in the General Assembly may choose to have deductions made from the teacher's salary as a legislator for contributions under either I.C. 5–10.4–4–11 or I.C. 5–10.3–7–9.

PROHIBITED POLITICAL ACTS *Back*

As government employees, teachers are subject to I.C. 3-14-1-17:

A teacher may not knowingly or intentionally use the property of the teacher's employer (the school corporation or a charter school) to do any of the following:

(1) Solicit a contribution.
(2) Advocate the election or defeat of a candidate.
(3) Advocate the approval or defeat of a public question.

"Property" refers only to the following:
(1) Equipment, goods, and materials, including mail and messaging systems.
(2) Money.

A teacher may not knowingly or intentionally distribute campaign materials advocating:
(1) The election or defeat of a candidate; or
(2) The approval or defeat of a public question;
on the school corporation's or the charter school's real property during regular working hours.

This section does not prohibit the following:
(1) Activities permitted under I.C. 6-1.1-20 [concerning procedures for issuance of bonds and other evidences of indebtedness by political subdivisions].
(2) A teacher from carrying out administrative duties under the direction of an elected official who is the teacher's supervisor.

A teacher who knowingly or intentionally performs several actions described above in a connected series that are closely related in time, place, and circumstance may be charged with only one (1) violation of this section for that connected series of actions.
A teacher who violates I.C. 3-14-1-17 commits a Class A misdemeanor. However, the offense is a Level 6 felony if the person has a prior unrelated conviction under the same section.

LABOR ORGANIZATION MEMBERSHIP *Back*

A person may not require an individual to:

(1) become or remain a member of a labor organization;
(2) pay dues, fees, assessments, or other charges of any kind or amount to a labor organization; or
(3) pay to a charity or third party an amount that is equivalent to or a pro rata part of dues, fees, assessments, or other charges required of members of a labor organization;

as a condition of employment or continuation of employment.

I.C. 22-6-6-8

TEACHER RIGHTS AND PRIVILEGES – INFRINGEMENT, INJUNCTION

Back

A teacher whose rights and privileges under sections 14 through 17 of I.C. 20-28-10 [freedom of association, candidacy, membership in the General Assembly, and school counselor qualified privilege] are or are about to be infringed by a rule or regulation may, in accord with the law governing injunctions, seek to enjoin the school corporation from the infringement. A circuit or superior court shall issue the injunction if the court finds an infringement.

I.C. 20-28-10-18

DAILY FREE TIME

Back

Each school corporation and its administrators shall arrange each teacher's daily working schedule to provide at least thirty (30) minutes between 10 a.m. and 2 p.m. for a period free of duties.

I.C. 20-28-10-19

EMPLOYEE RIGHTS: COLLECTIVE BARGAINING & PROHIBITION OF REQUIRED SUPPORT OF ORGANIZATION

Back

For more information on collective bargaining rights, see:

http://www.in.gov/ieerb ***or contact the Indiana Education Employment Relations Board at 317-233-6620.***

No worker or group of workers who have a legal residence in the state of Indiana shall be denied the right to select his or their bargaining representative in this state, or be denied the right to organize into a local union or association to exist within and pursuant to the laws of the state of Indiana.

I.C. 22-7-1-2

School employees may:

(1) form, join, or assist school employee organizations;
(2) participate in collective bargaining with school employers through representatives of their own choosing; and
(3) engage in other activities, individually or in concert;

to establish, maintain, or improve salaries, wages, salary and wage related fringe benefits, and other matters set forth in I.C. 20-29-6-4 and I.C. 20-29-6-5.

I.C. 20-29-4-1

School employers and school employees shall:

(1) have the obligation and the right to bargain collectively the items set forth in I.C. 20-29-6-4;
(2) have the right and obligation to discuss any item set forth in I.C. 20-29-6-7; and
(3) enter into a contract embodying any of the matters listed in I.C. 20-29-6-4 on which they have bargained collectively.

I.C. 20-29-6-1

A school employee may not be required to join or financially support a school employee organization through the payment of fair share fees, representation fees, professional fees, or other fees.

I.C. 20-29-4-2

In each school year in which school employee participation in the school employee organization serving as the exclusive bargaining representative is less than the majority of school employees within the unit, IEERB is required to notify the school employees within the unit of their right to representation and their ability to change their exclusive bargaining representative.

I.C. 20-29-5-8(b)

Teachers may, either through a school employee organization, or as part of twenty percent (20%) of school employees in a bargaining unit, petition for recognition or decertification of an exclusive representative by filing a petition with the Indiana Education Employment Relations Board (see below). Notice must be posted prior to any amendments or clarifications to the bargaining unit. A teacher affected by the proposed amendment or clarification may object to it by filing a complaint with the Indiana Education Employment Relations Board. I.C. 20-29-5; 560 I.A.C. 2-2.

I.C. 20-29-6-1

Exclusive Representative; Unit Determination

Back

The exclusive representative shall serve for school employees within certain groups referred to in I.C. 20-29-5 as units or bargaining units. A bargaining unit may not contain both certificated and noncertificated employees. Subject to this limitation, the units for which an exclusive representative serves are determined in accordance with the following:

The parties may agree on the appropriate unit. For this purpose, the parties consist of the school employer and a school employee organization representing at least twenty percent (20%) of the school employees in a proposed unit. If the parties do not reach an agreement on the appropriate unit, or if a school employee in the proposed unit files a complaint about the unit with the IEERB the board shall determine the proper unit after a hearing. The board's decision must be based on but not limited to the following considerations:

(1) Efficient administration of school operations.
(2) The existence of a community of interest among school employees.
(3) The effects on the school corporation and school employees of fragmentation of units.
(4) Recommendations of the parties involved.

In making a determination, the board shall give notice to all interested parties in accordance with the rules of the board.

I.C. 20-29-5-1

Employer Recognition of Exclusive Representative

Back

A school employer may recognize as the exclusive representative of the school employer's employees within an appropriate unit a school employee organization that presents to the employer evidence of the school employee organization's representation of a majority of the school employees within the unit, unless:

(1) another school employee organization representing twenty percent (20%) of the school employees within the unit files written objections to the recognition; or
(2) a school employee files a complaint to the composition of the unit with the school employer or the IEERB within the notice period set forth in this section.

Before recognizing an exclusive representative under this section, the school employer shall post a written public notice of the school employer's intention to recognize the school employee organization as exclusive representative of the school employees within the unit. The notice must be posted for thirty (30) calendar days immediately preceding recognition in each of the buildings where the school employees in any unit principally work.

I.C. 20-29-5-2

Payment of Dues to Exclusive Representatives

Back

The school employer may, on receipt of the written authorization of a school employee:

(1) deduct from the pay of the employee any dues designated or certified by the appropriate officer of a school employee organization that is an exclusive representative of any employees of the school employer; and
(2) remit the dues to the school employee organization.

I.C. 20-29-5-6

Subjects of Collective Bargaining

Back

A school employer shall bargain collectively with the exclusive representative on the following:

(1) Salary.
(2) Wages.
(3) Salary and wage related fringe benefits, including accident, sickness, health, dental, vision, life, disability, retirement benefits, and paid time off as permitted to be bargained under I.C. 20–28–9–11.

Salary and wages include the amounts of pay increases available to employees under the compensation plan adopted under I.C. 20–28–9–1.5, but do not include the teacher evaluation procedures and criteria, any components of the teacher evaluation plan, rubric, or tool, or any performance stipend or addition to base salary based on a performance stipend to an individual teacher under I.C. 20–43–10–3.

I.C. 20-29-6-4

Prohibited Subjects of Collective Bargaining

Back

A school employer may not bargain collectively with the teacher's union representative on the following:

(1) The school calendar.
(2) Teacher dismissal procedures and criteria.
(3) Restructuring options available to a school employer under federal or state statutes, regulations, or rules because of the failure of the school corporation or a school to meet federal or state accountability standards.
(4) The ability of a school employer to contract, partner, or operate jointly with an educational entity that provides postsecondary credits to students of the school employer or dual credits from the school employer and the educational entity.
(5) Any subject not expressly listed in I.C. 20-29-6-4.
(6) A matter that another state law specifies is not subject to collective bargaining, including I.C. 20–28–9–1.5 and I.C. 20–43–10–3.5.

I.C. 20-29-6-4.5

Subjects of Discussion *Back*

A school employer shall discuss with the exclusive representative the following items:

(1) Curriculum development and revision.
(2) Selection of curricular materials.
(3) Teaching methods.
(4) Hiring, evaluation, promotion, demotion, transfer, assignment, and retention of certificated employees.
(5) Student discipline.
(6) Expulsion or supervision of students.
(7) Pupil/teacher ratio.
(8) Class size or budget appropriations.
(9) Safety issues for students and employees in the workplace, except those items required to be kept confidential by state or federal law.
(10) Hours.
(11) Funding for a plan for a remediation program for any subset of students enrolled in kindergarten through grade 12.
(12) The following nonbargainable items under I.C. 20–43–10–3.5:

(A) Teacher appreciation grants.
(B) Individual teacher appreciation grant stipends.
(C) Additions to base salary based on teacher appreciation grant stipends.[4]

(13) The pre-evaluation planning session required under I.C. 20–28–11.5–4.
(14) The superintendent's report to the governing body concerning staff performance evaluations required under I.C. 20–28–11.5–9.
(15) A career pathway and membership plan established under I.C. 20-20-42-2.

I.C. 20-29-6-7

[Note: I.C. 20-28-9-1.5(a) states "A supplement [payment for obtaining a relevant Master's degree] provided under this subsection is not subject to collective bargaining, but a discussion of the supplement must be held."]

Obligation to Reach an Agreement; Impasse *Back*

The obligation to discuss does not require either party to enter into a contract, agree to a proposal, or make a concession related to the items listed in I.C. 20-29-6-7. A failure to reach an agreement on a matter of discussion does not allow the use of any part of the impasse procedure under I.C. 20-29-8.

I.C. 20-29-6-8

Petition for Redress of Employee Grievances and Conferences Regarding the Operation of Schools *Back*

The obligation to bargain collectively or discuss a matter does not prevent (1) a teacher from petitioning the school employer, governing body, or superintendent for a redress of the teacher's grievances, either individually or through the exclusive representative; or (2) the school employer or superintendent from conferring with a citizen, taxpayer, student, school employee, or other person considering the operation of the schools and the school corporation. I.C. 20-29-6-9.

Commencement of Collective Bargaining *Back*

Formal collective bargaining between a school corporation and the exclusive representative shall not begin before:

[4] More details about teacher appreciation grant stipend requirements and distributions may be found at I.C. 20-43-10-3.5.

(1) September 15 in the first year of the state budget biennium; or
(2) September 15 in the second year of the state budget biennium if the parties agreed to a one (1) year contract during the first year of the state budget biennium or the contract provides for renegotiating certain financial items the second year of a two (2) year contract.

Informal negotiations may be held before September 15.

I.C. 20-29-6-12

Factfinding if Agreement Not Reached; Costs *Back*

If an agreement has not been reached on the items permitted to be bargained collectively under I.C. 20-29-6-4, within fifteen (15) days after mediation under section 13 of I.C. 20-29-6 has ended, the IEERB shall initiate factfinding. Factfinding must culminate in the factfinder imposing contract terms on the parties. The factfinder must select one (1) party's last best offer as the contract terms. The factfinder's order must be restricted to only those items permitted to be bargained and included in the collective bargaining agreement under section 4 of I.C. 20-29-6 and must not put the employer in a position of deficit financing (actual expenditures exceeding the employer's current year actual general fund revenue). The factfinder's order may not impose terms beyond those proposed by the parties in their last, best offers.

Costs for the factfinder shall be borne equally by the parties. Factfinding may not last longer than thirty (30) days.

I.C. 20-29-6-15.1

Continuation of Contract Terms if Agreement Not Reached or Contract Expires *Back*

If an agreement has not been reached on the items to be bargained collectively by November 1, as provided in I.C. 6–1.1–17–5, the parties shall continue the terms of the current contract that is in effect, and the school employer may issue tentative individual contracts and prepare its budget on that basis. During this period, in order to allow the successful resolution of the dispute, the school employer may not unilaterally change the terms or conditions of employment that are issues in dispute.

Upon the expiration of the current contract that is in effect, except for teacher appreciation grant stipends and additions to base salary provided under I.C. 20–43–10–3.5, the school employer shall continue under the terms of the current contract that is in effect, with no increase or increment in salary, wages, or benefits for any bargaining unit teacher until a new contract is executed.

The only parts of the contract that must continue under this section are the items contained in the contract and listed in I.C. 20-29-6-4.

I.C. 20-29-6-16

Appeal of Decision of Factfinder *Back*

Either party may appeal the decision of the factfinder under I.C. 20–29–6–15.1. The appeal must be filed not later than thirty (30) days after receiving the factfinder's decision. The IEERB's decision must be restricted to only those items permitted to be bargained and included in the collective bargaining agreement under section 4 of I.C. 20-29-6 and must not put the employer in a position of deficit financing. The board's decision may not impose terms beyond those proposed by the parties in their last, best offers. The board must rule on the appeal within thirty (30) days after receipt of notice of appeal.

I.C. 20-29-6-18

Posting of Contract on School's Website *Back*

Not later than fourteen (14) business days after the parties have reached an agreement under this chapter, the school employer shall post the contract upon which the parties have agreed on the school employer's Internet web site.

I.C. 20-29-6-19

School Employer; Filing of Frivolous Complaint *Back*

It is an unfair practice for a school employer to do any of the following:

(1) Interfere with, restrain, or coerce teachers in the exercise of the rights guaranteed in I.C. 20-29-4.
(2) Dominate, interfere, or assist in the formation or administration of any school employee organization or contribute financial or other support to the organization. Subject to rules adopted by the school corporation, a school corporation may permit teachers to confer with the school corporation or with any school employee

organization during working hours without loss of time or pay.

(3) Encourage or discourage membership in any school employee organization through discrimination in regard to hiring, tenure of employment, or any term or condition of employment.
(4) Discharge or otherwise discriminate against a teacher because the teacher has filed a complaint, affidavit, petition, or any information or testimony under this article.
(5) Refuse to bargain collectively or discuss permissible topics with an exclusive representative as required by I.C. 20-29.
(6) Fail or refuse to comply with any provision of I.C. 20-29.

If (1) a complaint is filed that alleges an unfair practice has occurred with respect to a subject that may be discussed under this article; and (2) the complaint is found to be frivolous, then the party that filed that complaint is liable for costs and attorney's fees.

I.C. 20-29-7-1

School Employee Organization; Unfair Practices *Back*

It is an unfair practice for a school employee organization or the organization's agents to do any of the following:

(1) Interfere with, restrain, or coerce:

(A) teachers in the exercise of the rights guaranteed by I.C. 20-29; or
(B) a school employer in the selection of its representatives for the purpose of bargaining collectively, discussing, or adjusting grievances.

This subdivision does not impair the right of a school employee organization to adopt its own rules with respect to the acquisition or retention of membership in the school employee organization.

(2) Cause or attempt to cause a school employer to discriminate against a teacher in violation of I.C.20-29-7-1.
(3) Refuse to bargain collectively with a school employer if the school employee organization is the exclusive representative.
(4) Fail or refuse to comply with any provision of I.C. 20-29.

I.C. 20-29-7-2

Right to Bring Suit for Specific Performance or Breach of Performance *Back*

A school employer or school employee organization has the right to bring suit for specific performance or breach of performance, or both, of a collective bargaining contract in any court having jurisdiction. I.C. 20-29-7-3.

Remedies for Unfair Practices *Back*

A school employer or a teacher who believes the employer or teacher is aggrieved by an unfair practice may file a complaint under oath, setting out a summary of the facts involved and specifying the section or sections of I.C. 20-29 alleged to have been violated.

The IEERB shall give notice to the school employer or school employee organization against whom the complaint is directed and determine the matter raised in the complaint. Appeals may be taken under I.C. 4-21.5-3. A hearing examiner or agent of the board, who may be a member of the board, may take testimony and make findings and conclusions. The board, but not a hearing examiner or agent of the board, may, after summary hearing, enter interlocutory orders the board considers necessary in carrying out the intent to remedy unfair practices. I.C. 20-29-7-4.

STRIKES *Back*

Strikes Prohibited *Back*

It is unlawful for a teacher, a school employee organization, or an affiliate, including state or national affiliates of a school employee organization to take part in or assist in a strike against a school employer or school corporation. I.C. 20-29-9-1.

Remedies for Strike *Back*

A school corporation or school employer may in an action at law, a suit in equity, or another proper proceeding, take action against a school employee organization, an affiliate of a school employee organization, teacher, or any person aiding or abetting in a strike for redress of the unlawful act. I.C. 20-29-9-2.

Payment of Striking Employee *Back*

A school corporation shall not pay a teacher for any day when the teacher fails, as a result of a strike, to report for work as required by the school year calendar. I.C. 20-29-9-5.

SCHOOL YEAR, DAYS, HOURS

Back

Minimum Length of School Year

Back

A regulation, rule, or law concerning the minimum length of a school year may not apply or require makeup days if schools in a school corporation are closed as a result of a teacher, or other school employee, strike. I.C. 20-29-9-4.

Student Instructional Days; Hours of Instructional Time

Back

(a) A student instructional day in grades 1 through 6 consists of at least five (5) hours of instructional time. Except as provided below, a student instructional day in grades 7 through 12 consists of at least six (6) hours of instructional time.
(b) Except as provided in subsection (c), an instructional day for a school flex program under I.C. 20-30-2-2.2 consists of a minimum of three (3) hours of instructional time.
(c) A student instructional day for a qualified high school (as defined in I.C. 20-24.2-1-3) consists of any amount of instructional time.
(d) A high school student who is enrolled in at least twelve (12) credit hours of on-campus dual credit courses (as described in I.C. 21-43-1-2.5) is not required to comply with subsection (a) during the semester in which the student is enrolled in at least twelve (12) credit hours.

I.C. 20-30-2-2

Student Instructional Days; Minimum Days for School Year

Back

For each school year, a school corporation shall conduct at least one hundred eighty (180) student instructional days.

I.C. 20-30-2-3

Minimum Length of School Term

Back

The minimum length for a school term is nine (9) months. I.C. 20-30-2-7.

BACKGROUND CHECKS

Back

A school corporation and a charter school must adopt a policy that requires an expanded criminal history background check for anyone who applies for employment with the school or with an entity that contracts with the school, or who seeks to enter into a contract to provide services to the school or is employed by an entity that provides services to a school, where one is likely to have direct, continuing contact with children while in the scope of one's employment. For an applicant for employment with the school, the expanded criminal history check must occur not later than thirty (30) days after the start date of the applicant's employment.

An expanded child protection index check must be conducted for each applicant either before but not later than sixty (60) days after the start date of the applicant's employment. An expanded child protection index must include inquiries of each state where information is necessary.

The school must require an expanded criminal history check for each employee at least once every five (5) years. A school may require an expanded child protection index check once every five (5) years.

A school may require an applicant or employee to provide a set of fingerprints and pay any fees necessary to obtain an expanded criminal history check. The school may require an applicant to pay the costs for an expanded child protection index check but may not require any employee to assume this cost.

I.C. 20-26-5-10

Q. **As a teacher, am I protected if I take action to enforce the school's discipline policies when a student is breaking school rules?**

A. Yes. If a parent sues you for something you've done while enforcing the school's discipline policies, the Attorney General will defend you in that lawsuit. You also have the right to decline the Attorney General's services and hire an attorney at your own expense. In addition, the school may also have a duty to defend you if the actions you took were within the scope of your duties as a teacher.

Q. **As a teacher, do I have the right to remove a student from my classroom and send the student to administration for further discipline?**

A. Yes, although local school policies may require that other interventions be attempted before removing the student.

Q. **If a parent sues me alleging that I did or failed to do something that caused injury to their child, will the school defend me in the lawsuit?**

A. Yes. If your actions were within the scope of your responsibilities as a teacher, the school will defend you and cover the costs of your defense. Schools maintain liability insurance to cover employees acting within the scope of their employment with the school corporation.

Q. **As a teacher, may I provide input to the administration about the plan for evaluating teachers?**

A. Yes. Individual teachers may provide input to the administration. The school is also required to discuss the evaluation plan with the exclusive representative/teachers' union.

Q. **Who decides how much student test results count in a teacher performance evaluation?**

A. Unless otherwise provided by law, the school administration and the exclusive representative/union must discuss the evaluation plan before it is implemented. However, after discussing and obtaining input from the exclusive representative, the school is ultimately responsible for determining what is included in the evaluation plan. (See previous question/answer for additional information.)

Q. **Who has access to or the right to see the results of my performance evaluation?**

A. A teacher's evaluation is part of his or her personnel file and is accessible to the teacher and school administrators. Individual evaluation results cannot be disclosed to a member of the public.

Q. **Are schools required to use a specific rubric or model to evaluate an individual teacher's performance?**

A. No. A school may use existing IDOE approved evaluation rubrics/models such as RISE, TAP, or PAR, or it may develop its own teacher performance evaluation. Any locally developed teacher performance evaluation rubric/model must include specific components.

Q. **Does a teacher have to join the local teacher union?**

A. No. A teacher is not required to join the local union.

Q. **What can I do if I feel I am being pressured to join the union?**

A. It is an unfair practice for the union or its representatives to interfere with or coerce a teacher in exercising his/her right not to join a union. A teacher may file an unfair practice complaint with the Indiana Education Employment Relations Board if s/he feels the union is pressuring him/her to join the union. Information on unfair practice complaints can be found at http://www.in.gov/ieerb/2329.htm.

Q. **Can a school administrator take action against me if I join the union?**

A. No. The school cannot interfere with a teacher's right to join a union. It may also be an unfair practice for a school to discriminate against a teacher in order to discourage the teacher from joining a union.

Q. **Do teachers have the right to change the union that currently represents them (either bring in a new union or eliminate union representation altogether)?**

A. Yes. Teachers have the right to challenge whether the current union should continue to be the exclusive representative. The process starts with a petition by 20% of the school employees in a unit stating that the current exclusive representative is no longer the representative of a majority of the school employees in the unit. The petition is filed with the Indiana Education Employment Relations Board. The Board investigates the petition and provides for a hearing and election as applicable.

Q. **Does a teacher have to have a representative of the union with the teacher when talking with the school administration?**

A. No. In certain situations, a teacher is entitled to have a union representative present when talking to a school administrator, and it is up to the individual teacher to decide whether to have the union representative present.

Q. **Does a teacher have to be a member of the local union in order to serve on a school committee?**

A. No. While there may be a limit on the number of teachers the union or the school may appoint to serve on a committee, there is no requirement that a teacher must be a union member to be appointed. The percentage of teacher positions the union may appoint to a districtwide committee is limited to the percentage of teachers in the corporation who are members of the union. For a schoolwide committee, it is limited to the percentage of teachers in the school who are members of the union.

Q. **How do I get a salary increase?**

A. Unless an exception is otherwise provided by law, salary increases are bargained through a compensation plan and must be based on a combination of the following factors:

- Education
- Experience
- Performance evaluation results
- Assignment of instructional leadership roles
- Academic needs of the students in the school corporation

A teacher who is rated as "ineffective" or "needs improvement" is not eligible for a salary increase (unless this occurs in the first full two (2) years of teaching).

Q. **What subjects can the union bargain with the school?**

A. The subjects of bargaining are limited to:

- Salary
- Wages
- Salary and wage related fringe benefits (including accident, sickness, health, dental, vision, life, disability, retirement benefits, and paid time off).

Q. **What must the school administration discuss with the exclusive representative?**

A. The parties must discuss the following items:

- Curriculum development and revision
- Selection of curricular materials
- Teaching methods
- Hiring, evaluation, promotion, demotion, transfer, assignment, and retention of certificated employees

- Student discipline
- Expulsion or supervision of students
- Pupil/teacher ratio
- Class size or budget appropriations
- Safety issues for students and employees in the workplace, except those items required to be kept confidential by state or federal law
- Hours
- Funding a plan for a remediation program for any subset of students enrolled in K-12
- Teacher appreciation grants
- Individual teacher appreciation grant stipends to teachers
- Additions to base salary based on teacher appreciation grant stipends
- The pre-evaluation planning session
- The Superintendent's report to the governing body on the aggregate results of the staff performance evaluations.

Q. **When does collective bargaining occur?**

A. Formal collective bargaining may begin on September 15, although informal bargaining may occur prior to that time, and ends November 14. The parties are not allowed to formally bargain outside this time period unless an exception is granted by IEERB.

Q. **Can teachers strike against the school corporation?**

A. No. The law prohibits teachers and teacher unions from striking against a school employer or school corporation.

Q. **How long is an instructional day?**

A. The minimum instructional day for grades one through six is five hours. For grades seven through twelve, the minimum instructional day is six hours. Instructional time does not include lunch or recess, but may include a reasonable amount of passing time between classes.

Q. **How many instructional days must be in a school year?**

A. A school must conduct at least 180 student instructional days each year.