

PART 9

GENERAL INFORMATION AND STATUTORY CITATIONS

Part 9 contains general information designed to assist charter school officials in the administration of their duties. The information contained herein is supported in some instances by legal references, court decisions and official opinions of the Attorney General; however, if any legal question arises, the charter school attorney should be consulted.

If the need arises, refer to the applicable volume of the Indiana Code in which the citation appears. Also, where reference is made to Official Opinions of the Attorney General, court decisions, or other legal references, these should be consulted for the full text of the matter discussed.

REQUIREMENT TO FOLLOW UNIFORM COMPLIANCE GUIDELINES MANUAL

Charter schools are required to follow the requirements established in the Accounting and Uniform Compliance Guidelines Manual for Indiana Charter Schools. If the state examiner allows a charter school to engage a private examiner, then the contract with the private examiner must require the examination and report to comply with the uniform compliance guidelines established by the State Board of Accounts, IC 5-11-1-24.

When necessary the State Board of Accounts makes revisions to the Accounting and Uniform Compliance Guidelines Manual for Indiana Charter Schools and also provides supplemental information in Quarterly Bulletins.

REQUIRED EXAMINATIONS

The state examiner, personally or through the deputy examiners, field examiners, or private examiners, shall examine all accounts and all financial affairs of charter schools. The state examiner may allow the engagement of private examiners to the extent necessary to satisfy the requirements of IC 5-11-1-9. Private examiners are required to follow all guidelines and requirements established in the Guidelines for Audit of Charter Schools By Authorized Independent Private Examiners provided by the State Board of Accounts.

Required examinations under IC 5-11-1 are to be conducted annually for all charter schools, per guidelines established by the Indiana Department of Education.

All required audits shall be made without notice to the officers whose accounts are to be examined and without notice to charter school employees. A person who recklessly communicates knowledge of any proposed examination of any public account to the officer in charge of the account or any unauthorized person commits a Class B misdemeanor, IC 5-11-1-18.

MEETINGS OF THE CHARTER SCHOOL'S BOARD

The Charter School's charter must specify that the charter school is subject to the requirements of IC 5-14-1.5, Public Meetings (Open door) Law. IC 20-24-4-1(a)(15)

Indiana Open Door Law

Board meetings are governed by the Open Door Law, IC 5-14-1.5. Under the Open Door Law all meetings of governing boards must be open to the public except for executive sessions.

Executive Sessions. IC 5-14-1.5-6.1(b) lists the circumstances under which an executive session may be held, including the following:

1. Where authorized by federal or state statute.
2. For discussion of strategy for: collective bargaining; initiation of litigation or litigation which is either pending or has been threatened specifically in writing; implementation of security systems; or purchase or lease of real property up to the time a contract or option to purchase or lease is executed by the parties.
3. To receive information about, and interview, prospective employees.
4. With respect to any employee's status or alleged misconduct.
5. For discussion of confidential records.
6. To discuss job performance evaluations of individual employees.

Final action on matters discussed in executive session must be taken at a meeting open to the public. Minutes of executive sessions must identify the subject matter considered by specific reference to the enumerated instance or instances for which public notice was given. The board must certify by a statement in its memoranda and minutes that it discussed no subject matter in the executive session other than the subject matter specified in the public notice. [IC 5-14-1.5-6.1]

Public Notice

Public notice of the date, time, and place of regular meetings, executive sessions, or rescheduled or reconvened meetings must be given at least 48 hours before the meeting (excluding Saturdays, Sundays, and legal holidays). Reconvened meetings may be held with less than 48 hours notice if the new date, time, and place is announced at the time of the original meeting and recorded in the minutes, and there is no change in the agenda. Public notice is given by posting a notice of the meeting at the office of the political subdivision and notifying all news media who have filed a written request to receive such notices. If an agenda is used, it should be posted at the entrance to the meeting place. Notice of regular meetings need be given only once each year unless the date, time or place is changed. In case of an emergency, the 48 hour requirement may be disregarded. [IC 5-14-1.5-5]

Minutes of Meetings

All business transacted by a charter school board must be recorded in the minutes of the meetings. The secretary of the board has the duty to keep the minutes and the minutes of each meeting should be approved by the charter school board and signed by the members attending.

The minutes must be accurate and complete. Not all documents acted upon, such as bids and contracts, must be copied in the minutes but reference thereto and the action taken thereon should be recorded in the minutes and the documents carefully preserved. Important papers and documents; however, will need to be completely recorded in the minutes. You should consult the charter school attorney if a question arises as to the need for making a complete record on any matter.

Examples of school business decisions and transactions which should be recorded in the minutes are:

1. Employment and compensation of teachers, janitors and other employees, including salary schedules adopted.
2. Travel and other allowances of employees, such as travel expense, to be paid to administrators and teachers, (Stipulated maximum amounts to be allowed should also be included in contracts). These amounts may be paid only as reimbursement for expenditures actually made by the employee.

3. Decision to allow teachers and other school employees to attend conventions or educational meetings, or to visit model schools, and the expense to be allowed on such trips.
4. Decisions with respect to receipt of bids and contracts for construction, alteration, or repair of buildings and improvement of grounds. All bids received, whether accepted or rejected, should be kept on file in the charter school office.
5. Decisions and actions relative to Public Employees' Retirement Fund benefits for employees; also employee benefits.
6. Records of discharge of all employees together with reasons for dismissal.
7. Records of time schools are closed during the school term and reasons for closing; also a record of decisions concerning date of beginning, date of closing and length of school terms.
8. Records of appointments and salaries of clerical help and office assistants, library, recreation and school lunch personnel.
9. All decisions relative to school activities, recreation programs, adult education and other programs.
10. Policy for the operation of individual school buildings; i.e., investment interest income, approval of equipment acquisition, etc.

PUBLIC ACCESS TO RECORDS

The Charter School's charter must specify that the charter school is subject to the requirements of the IC 5-14-3, Access to Public Records Law. IC 20-24-4-1(a)(13)

Public Policy

Access to public records is governed by IC 5-14-3. The official policy of the State is: "all persons are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and employees. Providing persons with the information is an essential function of a representative government and an integral part of the routine duties of public officials and employees, whose duty it is to provide the information." [IC 5-14-3-1]

Definition of Public Record

A public record is defined as any writing, paper, report, study, map, photograph, book, card, tape recording, or other material that is created, received, retained, maintained, used, or filed by or with a public agency and which is generated on paper, paper substitutes, photographic media, chemically based media, magnetic or machine readable media, electronically stored data, or any other material regardless of form or characteristics. [IC 5-14-3-2]

For purposes of IC 5-15-6, the terms "public record" or "record" refers to local government documentation. [IC 5-15-6-1.5]

Request for Access to Public Records

Any person may inspect and copy the public records of a public agency during regular business hours. A request for inspection or copying must identify with reasonable particularity the record being requested; and be, at the discretion of the public agency, in writing or on a form provided by the public agency. No request may be denied because the person making the request refuses to state the purpose of the request, unless such condition is required by other applicable statute. [IC 5-14-3-3(a)]

The public agency shall either: (a) provide the requested copies to the person making the request; or (b) allow the person to make copies on the political subdivision's equipment or on his own equipment. [IC 5-14-3-3(b)]

The denial of access to a public record is covered in IC 5-14-3-9.

Access to Electronic Data Storage Systems

A public agency that maintains or contracts for the maintenance of public records in an electronic data storage system shall make reasonable efforts to provide to a person making a request a copy of all disclosable data contained in the records on paper, disk, tape, drum, or any other method of electronic retrieval if the medium requested is compatible with the agency's data storage system. [IC 5-14-3-3(d)]

The public agency may adopt an ordinance or resolution prescribing the conditions under which a person who receives information on disk or tape may or may not use the information for commercial purposes, including to sell, advertise, or solicit the purchase of merchandise, goods, or services, or sell, loan, give away, or otherwise deliver the information obtained by the request to any other person for these purposes. Use of this information in connection with the preparation or publication of news, for nonprofit activities, or for academic research is not prohibited. A person who uses information in a manner contrary to the ordinance or resolution may be prohibited by the public agency from obtaining a copy or any further data. [IC 5-14-3-3 (e)]

A public agency may not enter into or renew a contract or an obligation (a) for the storage or copying of public records or (b) that requires the public to obtain a license or pay copyright royalties for obtaining the right to inspect and copy the records unless otherwise provided by applicable statute; if the contract, obligation, license, or copyright unreasonably impairs the right of the public to inspect and copy the agency's public records. [IC 5-14-3-3(f)]

Enhanced Access

As an additional means of inspecting and copying public records, a public agency may provide enhanced access to public records maintained by the public agency. A public agency may provide a person with enhanced access to public records if any of the following apply:

1. The public agency provides enhanced access to the person through its own computer gateway and provides for the protection of public records.
2. The public agency has entered into a contract with a third party under which the public agency provides enhanced access to the person through the third party's computer gateway or otherwise, and the contract between the public agency and the third party provides for the protection of public records.

A contract entered into under this section and any other provision of enhanced access must provide that the third party and the person will not engage in the following:

1. Unauthorized enhanced access to public records.
2. Unauthorized alteration of public records.
3. Disclosure of confidential public records.

A contract entered into under this section or any provision of enhanced access may require the payment of a reasonable fee to either the third party to a contract or to the public agency, or both, from the person.

A public agency may provide enhanced access to public records through the computer gateway administered by the Intelenet Commission established under IC 5-21-2. [IC 5-14-3-3.6]

Records Which May Be Excepted From Disclosure

Pursuant to IC 5-14-3-4(b), the following public records may be excepted from the disclosure requirements if the governing board approves a policy to that effect (Please see IC 5-14-3-4 for additional provisions):

1. Personnel files of employees and files of applicants for employment, except for:
 - a. The name, compensation, job title, business address, business telephone number, job descriptions, education and training background, previous work experience, or dates of first and last employment of present or former officers or employees of the public agency;
 - b. Information relating to the status of any formal charges against the employee; and
 - c. Information concerning disciplinary actions in which final action has been taken and that resulted in the employee being disciplined or discharged.

However, all personnel file information shall be made available to the affected employee or his representative. General personnel information on all employees or for groups of employees, without individual names, may not be excepted from disclosure.

2. Administrative or technical information that would jeopardize a record keeping or security system.
3. Computer programs, computer codes, computer filing systems, and other software that are owned by the public agency or entrusted to it and portions of electronic maps entrusted to a public agency by a utility.
4. Records specifically prepared for discussion or developed during discussion in an executive session under IC 5-14-1.5-6.1.
5. The identity of a donor of a gift made to a public agency if the donor requires nondisclosure of his identity as a condition of making the gift; or after the gift is made, the donor, or the donor's family, requests nondisclosure.

Names and addresses of employees may not be disclosed by the political subdivision to commercial entities for commercial purposes and may not be used by commercial entities for commercial purposes. [IC 5-14-3-3(f)]

Fees

The fiscal body (as defined in IC 36-1-2-6) of the public agency, or the governing body, if there is no fiscal body, shall establish a fee schedule for the certification or copying of documents. The fee for certification of documents may not exceed five dollars (\$5) per document. The fee for copying documents may not exceed the greater of: (1) ten cents (\$0.10) per page for copies that are not color copies or twenty-five cents (\$0.25) per page for color copies; or (2) the actual cost to the agency of copying the document. A fee established under this subsection must be uniform throughout the public agency and uniform to all purchasers. [IC 5-14-3-8 (d)]

NONINSTRUCTIONAL EMPLOYEES' SALARIES

There is no minimum salary law for noninstructional employees other than the state and federal minimum wage and hour laws.

Students performing services for any school in which they are enrolled and are regularly attending classes are not subject to the Indiana Minimum Wage Law of 1965, IC 22-2-2-3(i). However, they are subject to the employment limitations of IC 20-33-3.

RETIREMENT

A charter school may participate in any of the following: (1) The Indiana state teachers' retirement fund in accordance with IC 5-10.4. (2) The public employees' retirement fund in accordance with IC 5-10.3. (3) Another employee pension or retirement fund. IC 20-24-6-7(a)

The administrative officers of a school corporation or other institution covered by the fund shall: (1) notify each person to be employed in a teaching position that the person's obligations under this article are a condition of employment; and (2) make the obligations a part of the teacher's contract. (b) Except in cases where: (1) the contribution is made on behalf of the member; or (2) a retired member of the Indiana state teachers' retirement fund may not make contributions during a period of reemployment as provided under IC 5-10.2-4-8(d); a teacher's contract shall be construed to require the deduction of contributions to meet the teachers' contractual obligations to the fund and the state. IC 5-10.4-7-1

Each member shall contribute three percent (3%) of his compensation to the fund as specified in IC 5-10.2-3. However, for a member who is not a state employee, the employer may pay all or part of the contribution for the member. IC 5-10.3-7-9

Any charter school teacher that does not participate in a private pension or retirement program offered by the organizer of the charter school is a member of the Indiana state teachers' retirement fund. IC 20-24-6-7(b)

Any charter school employee that (1) is not eligible to participate in the Indiana state teachers' retirement fund, and (2) does not participate in a private pension or retirement program offered by the organizer of the charter school is a member of the public employees' retirement fund. IC 20-24-6-7(c)

Inquiries relative to participation in TRF or PERF should be directed to Indiana Public Retirement System (INPRS), 1 North Capital Street, Suite 001, Indianapolis, Indiana, 46204.

COMPULSORY EDUCATION

Compulsory school attendance provisions may be found in IC 20-33-2.

Minors may be employed in specified occupations during the time schools are in session pursuant to IC 20-33-3. Please refer to IC 20-33-3 in relation to employment of children who are more than fourteen (14) years of age and less than eighteen (18) years of age and the issuance of employment certificates.

AVAILABILITY OF EDUCATION

The Indiana Constitution in Article 8, Section I charges the Indiana General Assembly with the duty to encourage, by all suitable means, moral, intellectual, scientific, and agricultural improvement; and to provide, by law, for a general and uniform system of Common Schools, wherein tuition shall be without charge, and equally open to all.

CHILDREN WITH DISABILITIES

Every charter school is empowered individually or in joint programs to establish special classes or schools for instruction of children with disabilities.

Any school corporation may provide transfers and transportation of resident children with disabilities to facilities for the instruction of children with disabilities, IC 20-35-4-1.

INDIGENT CHILDREN

If a parent of a child or an emancipated minor, who is enrolled in a charter school, meets the financial eligibility standard under section 2 of IC 20-33-5, the parent of a child or an emancipated minor, may not be required to pay the fees for school books, supplies or other required class fees. Such fees shall be paid by the charter school in which the child resides. The charter school may apply for reimbursement from the State for textbooks and workbooks. IC 20-33-5 describes the duties of the charter school, the parents in relation to the eligibility standards for the financial assistance, the availability of application forms, etc.

Although a charter school may not withhold schoolbooks and supplies, require any special services from a child, or deny the child any benefit or privilege because the parent fails to pay required fees, the charter school may take any action authorized by law to collect unpaid fees from parents who are determined to be ineligible for assistance and may recover reasonable attorney fees and court costs in addition to a judgment award against those parents. Financial assistance for shoes and clothing is not the responsibility of the charter school under IC 20-33-5.

AVERAGE DAILY MEMBERSHIP (ADM)

The Organizer shall maintain records (enrollment cards, rosters, reporting forms, etc.) which substantiate the number of students claimed for ADM.

The building level administrator (Principal, Assistant Principal, etc.) is responsible for reporting ADM to the Organizer, shall provide a written certification of ADM to properly document responsibility. The certification must at a minimum include a statement detailing the names and location of the records used (these records must be retained for public inspection and audit) to substantiate ADM claimed.

STUDENT INFORMATION REPORTING

Not later than the date established by the Indiana Department of Education (IDOE) for determining ADM, and after May 31 each year, the organizer shall submit to IDOE the following information of a form prescribed by IDOE: (1) The number of students enrolled in the charter school. (2) The name and address of each student. (3) The name of the school corporation in which the student has legal settlement. (4) The name of the school corporation, if any, that the student attended during the immediately preceding school year. (5) The grade level in which the student will enroll in the charter school, IC 20-24-7-2.

ANNUAL REPORT REQUIREMENTS

Charter schools are required to file an annual report with the State Examiner not later than sixty (60) after the close of each fiscal year, IC 5-11-1-4. In order to not duplicate efforts, the State Board of Accounts considers the combination of the two 6 month periods for each school year on the Indiana Department of Education's (IDOE) Form 9 Biannual Financial Report as the annual report for charter schools.

Charter schools are required to submit a Form 9 Biannual Financial Report two times per year during the months of January and July. The financial information in the Form 9 shall reflect cash basis information. The January report must include previous calendar year financial and other required information for the period July 1 to December 31 financial data. The July report must include current calendar year financial and other required information for the period January 1 to June 30.

Charter schools must file Form 9 information electronically with the Office of School Finance. Questions related to Form 9 filing and other requirements can be directed to staff in the Office of School Finance at (317) 232-0840 or by emailing form9@doe.in.gov.

ADDITIONAL INDIANA CODE REFERENCES

Portions of or all of the following Indiana Codes are applicable to charter schools and have been provided for reference for charter school officials:

IC 1-1-5.5-20	(Resolution of conflicts between P.L. 258-2003 and other acts)
IC 5-1.4-1	(Local Public Improvement Bond Banks)
IC 5-1.4-1-10	(Definition of "qualified entity" for the purposes of IC 5-1.4-1)
IC 5-1.5-1	(Indiana Bond Bank)
IC 5-1.5-1-8	(Definition of "qualified entity" for the purposes of IC 5-1.5-1)
IC 5-10-8	(Group Insurance for Public Employees)
IC 6-3-2-22	(Definition of "private elementary or high school education program" for the purposes of IC 6-3-2-22)
IC 13-11-2-176.5	(Definition of "Public School" for the purposes of IC 13-11-2-47.7)
IC 20-18-2-16	(Definition of "school corporation" for the purposes of IC 20-20-33 and IC 20-30-8)
IC 20-19-3-9.4	(Disclosure of student test number information)
IC 20-20-5.5-3	(Notification by the State Superintendent of the availability of Evaluation)
IC 20-20-8-6	(Details the contents of the annual performance report)
IC 20-20-13-3	(Definition of "school corporation" for the purposes of IC 20-20-13 through IC 20-20-24)
IC 20-20-33	(Alternative Education Program Grants)
IC 20-24	(Charter Schools section of school code)
IC 20-26-5-10	(Requirement adopt a policy to perform criminal history checks)
IC 20-26-5-32.2	(Employee Wage Payment Arrangements)
IC 20-26-7-1	(Sale or lease of unneeded property to a charter school)
IC 20-28-5-16	(Licensing program for charter school teachers)
IC 20-28-11.5-4a and 4b	(Staff Performance Evaluations)
IC 20-29	(Collective Bargaining for Teachers)
IC 20-29-2-4	(Definition of a "certified employee" for the purposes of IC 20-29)
IC 20-29-2-10	(Definition of a "governing body" for the purposes of IC 20-29)
IC 20-29-2-15	(Definition of a "school employer" for the purposes of IC 20-29)
IC 20-29-2-18	(Definition of a "superintendent" for the purposes of IC 20-29)
IC 20-30-5-18	(Requires the chief administrative officer provides information concerning meningococcal disease and its vaccine each year)
IC 20-30-5-19	(Requires curriculum for grades 6-12 instruction concerning personal financial responsibility)
IC 20-30-8	(Alternative Programs for Certain Students)
IC 20-31	(Accountability for Performance and Improvement)
IC 20-31-2	(Definition of a "charter school" for the purposes of IC 20-31)
IC 20-31-5-2	(States a "charter" may be used as the required 3 year plan)
IC 20-31-9-1	(States IC 20-31-9 does not apply to charter schools)
IC 20-33-2-28.5	(Requires and details report provided to IDOE concerning students withdrawing or stopped attending during a semester)
IC 20-33-5	(Financial Assistance for Students)
IC 20-33-8-30	(Enrollment in another school during period of expulsion)
IC 20-34-5-7	(Definition of "school" for the purposes of IC 20-34-7)
IC 20-39-1-2	(Requires charter school to adopt a unified accounting system as prescribed by the state board and the state board of accounts)
IC 20-43	(Procedures and calculations for distribution of state basic tuition support)
IC 20-47-3-1	(States IC 20-47-3 "Private Holding Companies" does not apply to charter schools)
IC 20-49-3-8	(States charter schools may receive advances from the Common School Fund under IC 20-24-7-3(c) and IC 20-49-7)

IC 20-49-7	(Charter School Advancement Account)
IC 20-51-4-1	(States charter schools shall not teach the violent overthrow of U.S. Government)
IC 20-51-4-3	(Requires charter schools to provide access to its premises to IDOE for their required random visits under IC 20-51-4-3(d))
IC 21-12-10	(Mitch Daniels Early Graduation Scholarship)
IC 21-12-10-1	(Definition of "publicly supported school" for the purposes of IC 21-12-10)
IC 31-9-2-113.5	(Definition of "school" for the purposes of IC 31-9-2-31 and IC 31-39-2-13.8)
IC 31-39-2-13.8	(States juvenile court may grant access to student records if charter schools submit the required written request)
IC 34-30-14-9	(Relieves the charter school of civil liability for employees providing the listed emergency assistance)
IC 35-42-4-7	(Child Seduction definitions and punishments)

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