



**HISTORY OF THE DUTIES AND POWERS
OF THE INDIANA STATE BOARD OF EDUCATION**

I. Formation of the State Board of Education – 1852

The Indiana Free School Law, enacted in 1852, provided for a general and uniform system of common schools and school libraries. The Law provided for a state Superintendent of Public Instruction (“SPI”) and established the first state board of education (“SBOE”). The SBOE as originally constituted consisted of the SPI, and the Governor, Secretary, Treasurer and Auditor of the State of Indiana. The SBOE was required to meet once a year:

for the purpose of more effectively promoting the interests of education, by mutual conference, interchange of views and experience of the practical operation of the system, the introduction of uniform school books, the adoption of the most eligible means of facilitating the establishment of township school libraries, and the discussion and determination of such questions as may arise in the practical administration of the school system.¹

For many years after its creation, the SBOE’s chief function appears to have been “the examination, adoption and introduction of uniform school books.”² From 1852 until 1876, no identifiable appropriation was made for the SBOE in the state’s budget.³

II. Legislative Changes from 1865-1984

In 1865, the general school law was amended to change the composition of the SBOE to the SPI, the Governor, the presidents of the state university and the state normal school, and the superintendents of schools of the three largest cities in the state.⁴ At this time, the SBOE was empowered by the General Assembly to:

perform such duties as are prescribed by law, and may make and adopt such rules, by-laws and regulations as may be necessary for its own government, and for the complete carrying into effect the provisions of the next section of this act [State teachers’

¹ Revised Statutes 1852, ch. 98, § 147, p. 457 (June 14, 1852).

² See Richard G. Boone, A History of Education in Indiana. New York: D. Appleton and Company (1892), p. 163.

³ This means that we were unable to identify any specific funding set aside in the state budget for the SBOE either as a separate appropriation or as a line item under another state office or agency. Please note that the fact that a specific appropriation is not identifiable does not mean that money was not, in fact, set aside in the budget to be used implicitly by, or for administration of, the SBOE.

⁴ Acts 1865, ch. 1, § 153, p.33 (March 6, 1865). The president of Purdue was added as a board member in 1875. Acts 1875, § 153, p. 130 (Aug. 24, 1875).

certificates], and not in conflict with the laws of the state; and shall take cognizance of such questions as may arise in the practical administration of the school system not otherwise provided for, and duly consider, discuss, and determine the same.⁵

The SBOE was granted the power to examine applicants and grant certificates of qualification for teachers.⁶ However, it was relieved of the responsibility of selecting textbooks,⁷ at least until 1889, when the responsibility was returned to the SBOE.⁸

While not legally binding, the following quote from the SPI's report for 1885-86 illustrates the general feeling of the proper function of the SBOE around the end of the 19th century: "(1) It should be given full powers to fix the qualifications of teachers for the different classes of schools, to determine the grades and duration of their licenses, and, through the county superintendents, to provide for and direct their examinations. (2) It should be empowered to prescribe courses of study for schools of different grades and classes. (3) It should be empowered to make general rules and regulations regarding the location and construction of schoolhouses. (4) It should be given full supervisory control of the county and township institutes. (5) It should be empowered to make general rules and regulations for the government of county boards of education, in the adoption of text-books and apparatus, and for the government of trustees in the purchase of school furniture and supplies."⁹

By 1913, the composition of the SBOE included the SPI, the presidents of Purdue, the state university, and the state normal school, the superintendents of the three cities having the largest enumeration of children annually reported, three citizens actively engaged in educational work (one of whom had to be a county superintendent) and three citizens actively interested in vocational education (one had to be a representative of employers and another a representative of employees).¹⁰ The Governor appointed all members of the board other than the ex officio members. The SPI acted as board president except when absent, at which time the other members present elected a president pro tempore. Meetings were held upon call of the president or a majority of its members. The duties and powers of the SBOE remained unchanged from those originally assigned to it in 1865.

The State Executive Administrative Act of 1933 created various department of state government and authorized the Governor to transfer duties and functions from one department to another. Section 15 of the Act created a "department of education" and provided that the department of education was in charge of the "board of the department of education."¹¹ By proclamation made by Governor McNutt effective April 15, 1933, the SBOE was formally placed in the department of education.¹²

⁵ Acts 1865, ch. 1, § 154, p.34.

⁶ Acts 1865, ch. 1, § 155, p.34.

⁷ The power to select textbooks was (temporarily) in the hands of local county boards of education. See Acts 1873, ch. 25, § 8, p. 78 (March 8, 1873).

⁸ Acts 1889, ch. 50, § 1, p. 74 (March 2, 1889).

⁹ See Boone (1892), p. 270 (citing Part I, p. 198 of the State Superintendent's report for 1885-86).

¹⁰ Acts 1913, ch. 24, § 7, p. 37 (April 30, 1913).

¹¹ Acts 1933, ch. 4, § 15, p. 12.

¹² See Ind. Ann. Stat. § 28-401 (Burns 1933), compilers notes.

In 1941, the “state board of the department of education” was abolished and a new board was created called the “state board of education” (for the sake of simplicity, we will refer to all iterations of the state board of education as the SBOE).¹³ The new SBOE had nine members- the SPI, one individual who was either part of the faculty of the school of education of a state supported university or the president or any member of the faculty of a state supported teachers’ college, one individual who was the president or a member of the faculty of a college or university that was not state supported, one county superintendent, one city superintendent, one teacher on the faculty of a public high school, one teacher in a public elementary school and two persons who had demonstrated a continuing interest in education. Not more than four of the eight appointed members could be members of the same political party. Four appointments to the board were to be by the Governor, and four by the Lieutenant Governor, unless the Governor and Lieutenant Governor were of the same political party, in which case all were to be appointed by the Governor.¹⁴ As before, the SPI acted as board president except when absent, at which time the other members present elected a president pro tempore.¹⁵

In 1945, the SBOE was divided into three commissions: a commission on general education, a commission on textbook adoption and a commission on teacher training and licensing.¹⁶ Each commission was comprised of the SPI and six appointed members from the SBOE (as described above). The SPI was the chairman of the board of each commission. All of the powers of the predecessor state board of education were transferred to the new SBOE and the commissions.

The commission on textbook adoptions was delegated all of the powers and duties previously exercised by the SBOE with reference to the adoption and approval of textbooks and teaching materials.¹⁷ The commission on teacher training and licensing was delegated all of the powers and duties previously exercised by the SBOE with reference to examination, training and licensing of person desiring to teach in the elementary and secondary schools of the state, and the supervision and inspection of teacher training institutions.¹⁸

The commission on general education was delegated all of the duties and powers previously exercised by the SBOE that were not specifically assigned to the other two commissions (e.g., all education matters except teacher examination, training and licensing and text-book adoption and approval).¹⁹

¹³ Acts 1941, ch. 182, § 1, p. 552 (March 10, 1941). The new SBOE was not placed in the department of education.

¹⁴ The Indiana Supreme Court later held that the appointments by the Lt. Governor were an unconstitutional delegation of executive power. *Tucker v. State of Indiana*, 218 Ind. 614, 35 N.E.2d 270 (1941). As a result, all appointments were made by the Governor.

¹⁵ Acts 1941, ch. 182, § 1, p. 552.

¹⁶ Acts 1945, ch. 330, § 1, p. 1531 (March 9, 1945).

¹⁷ Acts 1945, ch. 330, § 3, p. 1531.

¹⁸ Acts 1945, ch. 330, § 4, p. 1531.

¹⁹ Acts 1945, ch. 330, § 2, p. 1531.

In 1972, the SBOE was empowered to adopt rules and regulations as “it may deem necessary and reasonable” concerning, but not limited to, the following:

(1) the designation and the necessary employment of Department of Education (“DOE”) employees and consultants, including fixing the compensation of DOE employees; (2) the adequacy of all new school sites and facilities or additions to or any modifications of existing facilities; (3) the establishment and maintenance of standards for the physical environment of schools; (4) the establishment and maintenance of standards and guidelines for media centers, libraries and other information sources as well as the licensing of those manning the centers; (5) the establishment and maintenance of standards for, and licensing of persons providing, pupil personal and guidance services; (6) the establishment and maintenance of minimum standards for driver education programs; and (7) the inspection of all public schools for the purpose of determining the condition of the schools and the development of standards for the accreditation of public schools.²⁰

During the period from 1865 to 1985, the source of funding for the SBOE varied. From 1877 to 1889, 1895 to 1905, 1915 to 1918, 1931 to 1932, and 1941 to 1975, the SBOE was funded by a separate appropriation in the budget.²¹ From 1923 to 1930, the SBOE appropriation appeared as a line item under the Office of the Superintendent of Public Instruction and from 1933 to 1940, the SBOE appropriation appeared as a line item under the DOE.²² We were unable to identify specific funding set aside for the SBOE (either as a separate appropriation or as a line item under another office or agency) from 1865 to 1876, 1890 to 1984, 1906 to 1914, 1919 to 1922, and 1976 to 1985.²³

III. The Modern State Board of Education

These statutes, and the duties, powers and composition of the SBOE, largely remained unchanged until 1984 when Public Law 20-1984 abolished the previously existing commissions and created the modern SBOE as it exists today.²⁴ The modern SBOE is composed of ten members plus the SPI. Of the ten

²⁰ See Ind. Code § 20-1-1-6 (Burns 1975), as added by Acts 1972, P.L. 157, § 1, p. 796; Acts 1973, P.L. 209, § 1, p. 1070.

²¹ See, e.g., Acts 1877, ch. 1, § 4, p. 12 (March 10, 1877); Acts 1895, ch. 143, § 2, p. 315 (March 11, 1895); Acts 1915, ch. 119, § 2, p. 518 (March 8, 1915); Acts 1931, ch. 97, § 2, p. 349-350 (March 10, 1931); Acts 1941, ch. 231, § 2, p. 848 (March 12, 1941); Acts 1957, ch. 285, § 2e, p. 711-712 (March 14, 1957) (specific appropriation for the General Commission of the State Board of Education).

²² See, e.g., Acts 1923, ch. 130, § 1, p. 345 (March 7, 1923); Acts 1933, ch. 88, § 2, p. 607 (March 1, 1933). Note that the initial specific appropriation for the DOE ended in 1940. The general assembly did not make a specific appropriation for the DOE again until 1985. See P.L. 339-1985 § 2. From 1941-1984, appropriations were made for the Superintendent of Public Instruction. See, e.g., Acts 1941, ch. 231, § 2, p. 845-46 (March 12, 1941); P.L. 380-1983 § 2.

²³ See fn. 3.

²⁴ P.L. 20-1984, § 205-206. See Ind. Code § 20-1-1-1 (Burns 1985), as revised by P.L. 20-1984, § 22. The code sections describing the composition, powers and duties of the SBOE have been reconfigured and recodified several times in the SBOE’s one hundred and fifty year history. For example, the concepts found in Indiana Code § 20-1-1-1

members appointed by the Governor, a minimum of four members must be actively employed in Indiana schools and hold a valid teaching license. At least one member must be appointed from each congressional district in Indiana and no more than six members could be appointed from any one political party. The SPI is the chairperson of the board. The previous commissions on textbook adoption and teacher training and licensing were abolished and all powers and duties of the commissions were transferred to the SBOE. Advisory committees on textbook adoption and teacher training and licensing were created. The advisory committees were composed of the SPI and six members appointed by the SPI. The SBOE was permitted to establish other advisory committees as necessary to provide technical and professional assistance to the board. These committees were abolished in 2005 and 2011.²⁵

In addition to the rulemaking authority granted in the 1970s, Public Law 20-1984 gave the SBOE the power to adopt rules concerning: (1) the compilation of the fire prevention and building safety commission rules for school use; (2) the adoption and approval of textbooks; (3) the training and licensing of teachers, including the establishment of standards of competency; and (4) the distribution of funds and revenues appropriated for the support of schools in the state.²⁶

Current statutes continue to grant the SBOE rulemaking authority over the majority of areas.²⁷

Public Law 20-1984 also added the language setting forth the primary policymaking duties of the SBOE as they exist today.²⁸ Specifically, it added Ind. Code 20-1-1-7, which provided that the SBOE shall:

(1) establish the educational goals of the state, developing standards and objectives for local school corporations; (2) assess the attainment of the established goals; (3) assure compliance with established standards and objectives; (4) make recommendations to the governor and general assembly on educational needs of the state including financial needs.²⁹

(Burns 1985) (the Acts of Indiana were recodified into the Indiana Code in 1971) were previously codified in Ind. Ann. Stat. § 28-101 (Burns 1970); Ind. Ann. Stat. § 28-405 (Burns 1948); Ind. Ann. Stat. § 28-401 (Burns 1933); Indiana Ann. Stat. § 6641g (Burns 1914); Indiana Revised Statutes, ch. 56, Sec. 5849 (Burns 1894); Indiana Revised Statutes, ch. 52, Sec. 4420 (August 24, 1875); Indiana Revised Statutes, ch. 296, Sec. 153 (March 6, 1865); and Indiana Revised Statutes, ch. 98, Sec. 147 (June 14, 1852).

²⁵ See P.L. 1-2005, § 12 (established the professional standards board to govern and to make recommendations concerning teacher training and licensing programs); P.L. 73-2011, § 22 (abolishing the textbook advisory committee). In 2011, the professional standards board was abolished and the powers and duties of the professional standards board were transferred to the DOE. See P.L. 220-2011, § 334. The SBOE was tasked with adopting rules for the teacher licensing and the adoption of an evaluation system for professional development. See P.L. 90-2011, § 2.

²⁶ See Ind. Code § 20-1-1-6 (Burns 1985), as revised by P.L. 20-1984, § 24.

²⁷ See Ind. Code § 20-19-2-8; 20-19-2-12(b). The SBOE may adopt rules setting forth nonbinding guidelines for the selection of school sites and the construction, alteration, and repair of school buildings, athletic facilities, and other categories of facilities related to the operation and administration of school corporations. See also the general powers granted to the SBOE in IC 20-19-2-14 [20-1-1-7], discussed in more detail below.

²⁸ P.L. 20-1984, § 210.

²⁹ See Ind. Code § 20-1-1-7 (Burns 1985), as revised by P.L. 20-1984, § 25.

In 2005, Article 20 of the Indiana Code was recodified.³⁰ The duties of the SBOE described above remained the same, but were recodified in Ind. Code 20-19-2-14.

In 2011, the General Assembly enacted Public Law 172-2011, which added IC 20-19-2-14(4).³¹ This section provides that: “the board will coordinate with the commission for higher education (IC 21-18-1) and the department of workforce development (IC 22-4.1-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force.”

In 2013, the General Assembly enacted Public Law 286-2013, which added a sixth duty to the list.³² Specifically, it added, IC 20-19-2-14(6) which provided that the SBOE shall: “Provide for reviews to ensure the validity and reliability of the ISTEP program.”

As a result of Public Laws 20-1984, 172-2011, and 286-2013, Ind. Code § 20-19-2-14, *Duties of state board*, currently reads:

The state board shall do the following: (1) establish the educational goals of the state, developing standards and objectives for local school corporations; (2) assess the attainment of the established goals; (3) assure compliance with established standards and objectives; (4) coordinate with the commission for higher education (IC 21-18-1) and the department of workforce development (IC 22-4.1-2) to develop entrepreneurship education programs for elementary and secondary education, higher education, and individuals in the work force; (5) make recommendations to the governor and general assembly concerning the educational needs of the state, including financial needs; (6) provide for reviews to ensure the validity and reliability of the ISTEP program.

The SBOE appropriation appeared as a line item under the DOE from 1999 to 2012.³³ In the 2013 budget bill, the SBOE was again given a separate appropriation.³⁴ No identifiable appropriation was made for the SBOE in the state’s budget from 1985 to 1998.

Information compiled by the staff of the State Board of Education, January 2014

³⁰ See P.L. 1-2005.

³¹ P.L.172-2011, § 120.

³² P.L.286-2013, § 12.

³³ See, e.g., P.L. 273-1999 § 9; P.L. 229-2011 § 9.

³⁴ See P.L. 205-2013 § 9. The current appropriations for the SBOE are for “the academic standards project to distribute copies of the academic standards and provide teachers with curriculum frameworks; for special evaluation and research projects, including national and international assessments; and for state board administrative expenses.” This language is substantially similar to the language contained in the budget bills from 2001 – 2012.