SENATE BILL No. 344

DIGEST OF INTRODUCED BILL

Citations Affected: IC 20-51.

Synopsis: Choice scholarships. Provides that a choice scholarship school (eligible school) may not discriminate against a staff member based on disability, race, color, gender, gender identity or expression, sexual orientation, national origin, religion, or ancestry. Provides that if the department of education (department) determines that the eligible school discriminates against a staff member of the school, the department shall send a notice to the eligible school indicating that the eligible school will not be considered an eligible school beginning in the school year immediately following the current school year. Provides that the eligible school has 30 days from the date of the notice to demonstrate to the department that the eligible school does not discriminate against staff members. Provides that an eligible school that does not comply within that time will not be considered an eligible school beginning in the school year immediately following the current school year. Provides that an eligible school may not discriminate against a student on the basis of sexual orientation or gender identity or expression.

Effective: Upon passage.

Ford J.D.

January 8, 2019, read first time and referred to Committee on Education and Career Development.

Introduced

First Regular Session of the 121st General Assembly (2019)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type.~~

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~*this style type*~~ reconciles conflicts between statutes enacted by the 2018 Regular and Special Session of the General Assembly.

SENATE BILL No. 344

A BILL FOR AN ACT to amend the Indiana Code concerning education.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 20-51-1-4.7, AS AMENDED BY P.L.242-2017, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4.7. "Eligible school" refers to a public or nonpublic elementary school or high school that:

(1) is located in Indiana;

(2) requires an eligible choice scholarship student to pay tuition or transfer tuition to attend;

(3) voluntarily agrees to enroll an eligible choice scholarship student;

(4) is accredited by either the state board or a national or regional accreditation agency that is recognized by the state board;

(5) administers the statewide assessment program;

(6) is not a charter school or the school corporation in which an eligible choice scholarship student has legal settlement under IC 20-26-11; ~~and~~

(7) submits to the department only the student performance data required for a category designation under IC 20-31-8-3; **and**

(8) complies with IC 20-51-4-1(h).

SECTION 2. IC 20-51-4-1, AS AMENDED BY P.L.106-2016, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided under subsections (b) through ~~(h),~~ **(i),** it is the intent of the general assembly to honor the autonomy of nonpublic schools that choose to become eligible schools under this chapter. A nonpublic eligible school is not an agent of the state or federal government, and therefore:

(1) the department or any other state agency may not in any way regulate the educational program of a nonpublic eligible school that accepts a choice scholarship under this chapter, including the regulation of curriculum content, religious instruction or activities, classroom teaching, teacher and staff hiring requirements **(except as provided in subsection (h)),** and other activities carried out by the eligible school;

(2) the creation of the choice scholarship program does not expand the regulatory authority of the state, the state's officers, or a school corporation to impose additional regulation of nonpublic schools beyond those necessary to enforce the requirements of the choice scholarship program in place on July 1, 2011; and

(3) a nonpublic eligible school shall be given the freedom to provide for the educational needs of students without governmental control.

(b) This section applies to the following writings, documents, and records:

(1) The Constitution of the United States.

(2) The national motto.

(3) The national anthem.

(4) The Pledge of Allegiance.

(5) The Constitution of the State of Indiana.

(6) The Declaration of Independence.

(7) The Mayflower Compact.

(8) The Federalist Papers.

(9) "Common Sense" by Thomas Paine.

(10) The writings, speeches, documents, and proclamations of the founding fathers and presidents of the United States.

(11) United States Supreme Court decisions.

(12) Executive orders of the presidents of the United States.

(13) Frederick Douglass's speech at Rochester, New York, on July 5, 1852, entitled "What to the Slave is the Fourth of July?".

(14) "Appeal" by David Walker.

(15) Chief Seattle's letter to the United States government in 1852

in response to the United States government's inquiry regarding the purchase of tribal lands.

(c) An eligible school may allow a principal or teacher in the eligible school to read or post in the school building or classroom or at a school event any excerpt or part of a writing, document, or record listed in subsection (b).

(d) An eligible school may not permit the content based censorship of American history or heritage based on religious references in a writing, document, or record listed in subsection (b).

(e) A library, a media center, or an equivalent facility that an eligible school maintains for student use must contain in the facility's permanent collection at least one (1) copy of each writing or document listed in subsection (b)(1) through (b)(9).

(f) An eligible school shall do the following:

(1) Allow a student to include a reference to a writing, document, or record listed in subsection (b) in a report or other work product.

(2) May not punish the student in any way, including a reduction in grade, for using the reference.

(3) Display the United States flag in each classroom.

(4) Provide a daily opportunity for students to voluntarily recite the Pledge of Allegiance in each classroom or on school grounds. A student is exempt from participation in the Pledge of Allegiance and may not be required to participate in the Pledge of Allegiance if:

(A) the student chooses to not participate; or

(B) the student's parent chooses to have the student not participate.

(5) Provide instruction on the constitutions of:

(A) Indiana; and

(B) the United States.

(6) For an eligible school that enrolls students in grades 6 through 12, provide within the two (2) weeks preceding a general election five (5) full recitation periods of class discussion concerning:

(A) the system of government in Indiana and in the United States;

(B) methods of voting;

(C) party structures;

(D) election laws; and

(E) the responsibilities of citizen participation in government and in elections.

(7) Require that each teacher employed by the eligible school present instruction with special emphasis on:

(A) honesty;
(B) morality;
(C) courtesy;
(D) obedience to law;
(E) respect for the national flag and the Constitution of the State of Indiana and the Constitution of the United States;
(F) respect for parents and the home;
(G) the dignity and necessity of honest labor; and
(H) other lessons of a steadying influence that tend to promote and develop an upright and desirable citizenry.

(8) Provide good citizenship instruction that stresses the nature and importance of the following:
(A) Being honest and truthful.
(B) Respecting authority.
(C) Respecting the property of others.
(D) Always doing the student's personal best.
(E) Not stealing.
(F) Possessing the skills (including methods of conflict resolution) necessary to live peaceably in society and not resorting to violence to settle disputes.
(G) Taking personal responsibility for obligations to family and community.
(H) Taking personal responsibility for earning a livelihood.
(I) Treating others the way the student would want to be treated.
(J) Respecting the national flag, the Constitution of the United States, and the Constitution of the State of Indiana.
(K) Respecting the student's parents and home.
(L) Respecting the student's self.
(M) Respecting the rights of others to have their own views and religious beliefs.

(9) Provide instruction in the following studies:
(A) Language arts, including:
(i) English;
(ii) grammar;
(iii) composition;
(iv) speech; and
(v) second languages.
(B) Mathematics.
(C) Social studies and citizenship, including the:
(i) constitutions;
(ii) governmental systems; and

(iii) histories;

of Indiana and the United States, including a study of the Holocaust and the role religious extremism played in the events of September 11, 2001, in each high school United States history course.

(D) Sciences.

(E) Fine arts, including music and art.

(F) Health education, physical fitness, safety, and the effects of alcohol, tobacco, drugs, and other substances on the human body.

(g) An eligible school shall not teach the violent overthrow of the government of the United States.

(h) An eligible school may not discriminate against a member of the eligible school's staff on the basis of any of the following:

(1) Disability.

(2) Race.

(3) Color.

(4) Gender.

(5) Gender identity or expression.

(6) Sexual orientation.

(7) National origin.

(8) Religion.

(9) Ancestry.

~~(h)~~ **(i)** Nothing in this section shall be construed to limit the requirements of IC 20-30-5.

SECTION 3. IC 20-51-4-3, AS AMENDED BY P.L.106-2016, SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) An eligible school may not discriminate on the basis of race, color, **sexual orientation, gender identity or expression,** or national origin.

(b) An eligible school shall abide by the school's written admission policy fairly and without discrimination with regard to students who:

(1) apply for; or

(2) are awarded;

scholarships under this chapter.

(c) If the number of applicants for enrollment in an eligible school under a choice scholarship exceeds the number of choice scholarships available to the eligible school, the eligible school must draw at random in a public meeting the applications of applicants who are entitled to a choice scholarship from among the applicants who meet the requirements for admission to the eligible school.

(d) The department shall make random visits to at least five percent

(5%) of eligible schools during a particular school year to verify that the eligible school complies with the provisions of this chapter and the Constitutions of the State of Indiana and the United States.

(e) Each eligible school shall grant the department reasonable access to its premises, including access to the school's grounds, buildings, and property.

(f) Each year the principal of each eligible school shall certify under penalties of perjury to the department that the eligible school is complying with the requirements of this chapter. The department shall develop a process for eligible schools to follow to make certifications.

(g) Each eligible school shall annually submit to the department, in a manner prescribed by the department, copies of teacher contracts or other documentation prescribed by the department to demonstrate that the eligible school's employment practices comply with section 1(h) of this chapter.

SECTION 4. IC 20-51-4-3.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 3.5. (a) If the department:**

(1) after reviewing documentation submitted under section 3(g) of this chapter determines that an eligible school does not comply with section 1(h) of this chapter;

(2) receives copies of findings from a court that an eligible school does not comply with section 1(h) of this chapter; or

(3) otherwise determines that an eligible school does not comply with section 1(h) of this chapter;

the department shall send a notice to the eligible school indicating that the eligible school will not be considered an eligible school under IC 20-51-1-4.7, beginning in the school year immediately following the current school year if the eligible school, within thirty (30) days of the date of the notice, does not demonstrate, in a manner prescribed by the department, that the eligible school complies with section 1(h) of this chapter.

(b) If an eligible school that receives a notice does not comply with section 1(h) of this chapter in the manner described in subsection (a), the school will not be considered an eligible school beginning in the school year immediately following the current school year. The department may not award a choice scholarship under this chapter to students enrolled in the school beginning in the school year immediately following the current school year until the department subsequently approves the school's application under subsection (d).

(c) An eligible school described in subsection (b) must notify

parents of students currently enrolled in the school that students enrolled in the school beginning in the school year immediately following the current school year will not be eligible to receive a choice scholarship under this chapter if the student is enrolled in the school.

(d) A school described in subsection (b) may submit an application to the department to become an eligible school not earlier than one (1) year from the date the school is no longer considered an eligible school under this section. The school must submit documentation prescribed by the department to demonstrate that the school is compliant with section 1(h) of this chapter.

SECTION 5. **An emergency is declared for this act.**