

IC 20-35-4

Chapter 4. School Corporations: Powers and Duties Regarding Children With Disabilities

IC 20-35-4-1

Instruction of children with disabilities; powers and duties; funding; personnel; rules

Sec. 1. (a) A school corporation acting individually or in a joint school services program with other corporations may establish and maintain instructional facilities for the instruction of children with disabilities.

(b) A school corporation may provide transfer and transportation of children with disabilities residing in the geographical limits of the corporation to facilities for the instruction of children with disabilities that are not maintained by the school corporation.

(c) A school corporation acting individually or in a joint school services program with other corporations may convert, build, or lease the necessary school buildings or use existing buildings to establish and maintain classes of one (1) or more pupils who are:

- (1) residents of Indiana; and
- (2) children with disabilities.

(d) A school corporation may provide for instruction of any child with a disability who is not able to attend a special class or school for children with disabilities. Special personnel may be employed in connection with these classes of schools, and any expenditures for these classes of schools are lawful expenditures for maintaining the education of children with disabilities.

(e) All nurses, therapists, doctors, psychologists, and related specialists employed under this chapter:

- (1) must be registered and authorized to practice under Indiana law; and
- (2) are subject to any additional requirements of the division.

(f) A school corporation acting individually or in a joint school services program with other corporations may purchase special equipment needed in a class or school for children with disabilities, and any expenditures made for this special equipment are lawful expenditures for maintaining the education of children with disabilities.

(g) Children with disabilities shall receive credit for schoolwork accomplished on the same basis as children without disabilities who do similar work.

(h) A school corporation constructing or operating a school under this chapter:

- (1) shall pay the operating expense for each student attending; and
- (2) is entitled to receive state aid for these students under the applicable laws.

Other school corporations sending children with disabilities as students of the school shall pay tuition in accordance with IC 20-35-8-1 through IC 20-35-8-2.

(i) If the state receives funds from the federal government to aid in the operation of any school for children with disabilities, the division shall distribute among these schools the grant of federal funds that are appropriated. The federal funds shall be expended for the purposes for which the funds are granted.

(j) Except as provided in section 9 of this chapter with regard to preschool children with disabilities, schools or classes for children with disabilities shall be operated by the school corporation establishing the schools or classes under:

- (1) Indiana laws applying to the operation of public schools; and
- (2) the supervision of the division.

(k) Teachers in classes and schools for children with disabilities:

(1) shall be appointed in the same manner as other public school teachers; and

(2) must possess:

(A) the usual qualifications required of teachers in the public schools; and

(B) any special training that the state board requires.

(l) The state board shall adopt rules under IC 4-22-2 governing the qualifications required of preschool teachers under contractual agreements entered into under section 9 of this chapter.

(m) Qualifications of paraprofessional personnel to be employed under this chapter are subject to a determination by the department. Before any type of special class organized or to be organized under this chapter is established in any school corporation or through any contractual agreement, the special class must be submitted to and approved by the state board.

(n) The state board shall adopt rules under IC 4-22-2 necessary for the proper administration of this chapter.

As added by P.L.1-2005, SEC.19. Amended by P.L.99-2007, SEC.179.

IC 20-35-4-2

Special schools for children with disabilities; payment and financing

Sec. 2. (a) The division may, upon application by the governing body of a school corporation, together with proof of need, authorize the school corporation to purchase, convert, remodel, or construct rooms or buildings for special schools for children with disabilities in an effort to have the schools located near the homes of the children with disabilities the schools will serve.

(b) The school corporation:

(1) shall pay the cost of purchase, conversion, remodeling, and construction and the cost of building equipment of any such school; and

(2) may finance such conversion, remodeling, and construction as other school buildings are financed.

(c) The school corporation establishing any such school may send all its children with disabilities to the school and shall admit, if facilities permit, any other children with disabilities in Indiana who:

- (1) are eligible under this chapter; and
- (2) are not provided with an opportunity to attend an adequate school in their own school corporation.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-3

Medical responsibility for children with disabilities; special education eligibility; qualifications for nurses and special therapists; responsibility of department of health

Sec. 3. (a) The medical care of a child with a disability is the responsibility of the physician chosen by the parent to attend the child. However, a child with a disability is not excused from attending school unless the local health officer, upon a statement of the attending physician, certifies that attendance would be injurious to the child. The educational and recreational program may not alter in any way the medical care prescribed by the proper medical authority. Eligibility for all special education classes and programs must be determined by appropriate specialists.

(b) All nurses and special therapists in physical therapy, occupational therapy, and related medical fields must be:

- (1) graduates of fully accredited training schools; and
- (2) registered by their respective examining boards or by their respective professional associations.

(c) The medical care of needy children with disabilities is the responsibility of the state department of health and its program for children with special health care needs, to the extent provided by law.

(d) The personnel and facilities under the program for children with special health care needs shall be used at all times for the following:

- (1) The determination of policies related to the medical care of children with disabilities.
- (2) The professional supervision of all special therapists.
- (3) Individual casework as available.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-4

Special education fund; appropriation

Sec. 4. (a) For the administration and field service of the division, there is appropriated annually out of the excise funds of the alcohol and tobacco commission an amount to administer this chapter as determined by the general assembly.

(b) Money appropriated under this section shall be deposited into a special fund in the state treasury to be known as the special education fund. The special education fund shall be:

- (1) administered by the state superintendent; and
- (2) used only for the administration of IC 20-35-2 through IC 20-35-6 and IC 20-35-8.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-5

Effect on other statutes

Sec. 5. This chapter does not amend, alter, or repeal any other statute but is supplemental to other statutes.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-6**Religious objection to medical examination**

Sec. 6. (a) Except as provided in subsection (b), this chapter does not require a student to:

- (1) undergo physical or medical examination or treatment; or
- (2) be compelled to receive medical instruction;

if the parent of the student, in writing, notifies the teacher or principal or other person in charge of the student that the parent objects to the medical examination, treatment, or instruction because the parent relies in good faith on prayer or spiritual means for the treatment of sickness or affliction.

(b) An objection may not be made to a physical or medical examination of a child with a physical disability to determine whether the child shall be admitted to any class or school for children with disabilities.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-7**Authority of school corporation to accept and invest gifts; special fund**

Sec. 7. (a) The governing body of a school corporation may do the following:

- (1) Accept, receive, and administer any gift, devise, legacy, or bequest of real or personal property, including the income from real estate:

(A) to or for the benefit of any school, dormitory, or facility for the education of children with disabilities; and

(B) for any of the purposes contemplated under this chapter and not inconsistent with this chapter or Indiana law.

- (2) Invest or reinvest any of the funds received under this section in the same kind of securities in which life insurance companies are authorized by law to invest their funds.

(b) All money received by a school corporation under this section and all money, proceeds, or income realized from any real estate or other investments or property:

- (1) shall be kept in a special fund;
- (2) may not be commingled with any other fund or funds received from taxation; and
- (3) may be expended by the governing body of the school corporation in any manner consistent with the:

(A) purposes of IC 20-35-2 through IC 20-35-6 and IC 20-35-8; and

(B) intention of the donor or donors.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-8

Duty to provide special education program; facilities

Sec. 8. (a) The school corporation in which a child with a disability resides is primarily responsible for providing the child with an appropriate special education program. The governing body of each school corporation shall establish and maintain the special educational facilities that are needed for:

- (1) children with disabilities residing in the school corporation; and
- (2) other children as authorized by this chapter.

However, under rules adopted by the state board, a child with a disability may be placed in a special education program that is not established or maintained by the school corporation.

(b) Notwithstanding subsection (a), a school corporation may establish special educational facilities for children with disabilities who are:

- (1) at least nineteen (19) years of age; or
- (2) less than six (6) years of age.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-9

Preschool special education

Sec. 9. (a) The budget agency and the division shall develop a funding mechanism to provide preschool special education. Each school corporation shall provide each preschool child with a disability with an appropriate special education. However, this subsection is applicable only if the general assembly appropriates state funds for preschool special education.

(b) A school corporation may act:

- (1) individually;
- (2) in a joint school services program with other school corporations as described in section 1 of this chapter; or
- (3) upon approval by the division, through contractual agreements entered into between a school corporation and a qualified public or private agency that serves preschool children with disabilities.

(c) The state board shall adopt rules under IC 4-22-2 governing the following:

- (1) The extent to which a school corporation may contract with another service provider as permitted under subsection (b).
- (2) The nature of the contracts.
- (3) The approval procedure required of the school corporation under subsection (b).
- (4) Other pertinent matters concerning these agreements.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-10

Comprehensive plan for educating children with disabilities; rules; age limits

Sec. 10. (a) For purposes of this section, "comprehensive plan"

means a plan for educating the following:

- (1) All children with disabilities that a school corporation is required to educate under sections 8 through 9 of this chapter.
- (2) The additional children with disabilities that the school corporation elects to educate.

(b) For purposes of this section, "school corporation" includes the following:

- (1) The Indiana School for the Blind and Visually Impaired board.
- (2) The Indiana School for the Deaf board.

(c) The state board shall adopt rules under IC 4-22-2 detailing the contents of the comprehensive plan. Each school corporation shall complete and submit to the state superintendent a comprehensive plan. School corporations operating cooperative or joint special education services may submit a single comprehensive plan. In addition, if a school corporation enters into a contractual agreement as permitted under section 9 of this chapter, the school corporation shall collaborate with the service provider in formulating the comprehensive plan.

(d) Notwithstanding the age limits set out in IC 20-35-1-2, the state board may:

- (1) conduct a program for the early identification of children with disabilities, between the ages of birth and less than twenty-two (22) years of age not served by the public schools or through a contractual agreement under section 9 of this chapter; and
- (2) use agencies that serve children with disabilities other than the public schools.

(e) The state board shall adopt rules under IC 4-22-2 requiring the:

- (1) department of correction;
- (2) state department of health;
- (3) division of disability and rehabilitative services;
- (4) Indiana School for the Blind and Visually Impaired board;
- (5) Indiana School for the Deaf board; and
- (6) division of mental health and addiction;

to submit to the state superintendent a plan for the provision of special education for children in programs administered by each respective agency who are entitled to a special education.

(f) The state superintendent shall furnish professional consultant services to school corporations and the entities listed in subsection (e) to aid them in fulfilling the requirements of this section.

As added by P.L.1-2005, SEC.19. Amended by P.L.231-2005, SEC.46; P.L.218-2005, SEC.81; P.L.1-2006, SEC.335; P.L.141-2006, SEC.98.

IC 20-35-4-11

Governing bodies powers and duties; diplomas or certificates of graduation to children with disabilities

Sec. 11. (a) The governing bodies of one (1) or more school corporations establishing and maintaining educational facilities and

services for students with disabilities, as described in this chapter, shall, in connection with establishing and maintaining the facilities and services, exercise similar powers and duties as are prescribed by law for the establishment, maintenance, and management of other recognized educational facilities and services.

(b) The governing bodies shall:

(1) include only eligible children in the program; and

(2) comply with all the requirements of:

(A) this chapter; and

(B) all rules established by the state superintendent and the state board.

(c) A school corporation may issue diplomas or certificates of graduation to pupils with disabilities completing special educational programs approved by the state superintendent and the state board.

As added by P.L.1-2005, SEC.19.

IC 20-35-4-12

Experimental special education programs for deaf and hard of hearing children

Sec. 12. Public schools may operate special education programs for deaf and hard of hearing children at least six (6) months of age on an experimental basis upon the approval of the state superintendent and the state board.

As added by P.L.1-2005, SEC.19. Amended by P.L.109-2012, SEC.15.