

IC 20-51-4

Chapter 4. Choice Scholarship

IC 20-51-4-1

Autonomy of nonpublic schools; curriculum

Sec. 1. (a) Except as provided under subsections (b) through (h), 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, 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 Douglas' Speech at Rochester, New York, on July 5, 1852, entitled "What to a 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, charter school, or public school shall not teach the violent overthrow of the government of the United States.
- (h) Nothing in this section shall be construed to limit the requirements of IC 20-30-5.

As added by P.L.92-2011, SEC.10.

IC 20-51-4-2

Eligibility for scholarships; limit on number of scholarships

Sec. 2. (a) Subject to subsection (b), an eligible choice scholarship student is entitled to a choice scholarship under this chapter for each school year beginning after June 30, 2011, that the eligible choice scholarship student enrolls in an eligible school.

(b) The department may not award more than:

(1) seven thousand five hundred (7,500) choice scholarships for the school year beginning July 1, 2011, and ending June 30, 2012; and

(2) fifteen thousand (15,000) choice scholarships for the school year beginning July 1, 2012, and ending June 30, 2013.

The department shall establish the standards used to allocate choice scholarships among eligible choice scholarship students.

As added by P.L.92-2011, SEC.10. Amended by P.L.211-2013, SEC.9.

IC 20-51-4-2.5

Eligibility of individual whose income increases

Sec. 2.5. Notwithstanding IC 20-51-1-4.3(3)(B), IC 20-51-1-4.3(3)(C), or IC 20-51-1-4.3(3)(D)(ii), an individual who initially meets the income requirements under IC 20-51-1-4.3(3)(B), IC 20-51-1-4.3(3)(C), or IC 20-51-1-4.3(3)(D)(ii) and is a member of a household whose income subsequently increases is considered to meet the income requirements for as long as the individual is enrolled in a participating school and is a member of a household with an annual income of not more than two hundred percent (200%) of the amount required for the individual to qualify for the federal free or reduced price lunch program.

As added by P.L.211-2013, SEC.10.

IC 20-51-4-3

Discrimination prohibited; random drawing if applications exceed scholarships; random visits by department; access by department; certification of compliance

Sec. 3. (a) An eligible school may not discriminate on the basis of race, color, 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 and charter schools to verify that the eligible school or charter school complies with the provisions of this chapter and the Constitutions of the state of Indiana and the United States.

(e) Each eligible school, public school, and charter 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.

As added by P.L.92-2011, SEC.10. Amended by P.L.229-2011, SEC.222; P.L.172-2011, SEC.126; P.L.6-2012, SEC.144.

IC 20-51-4-4

Maximum amount of scholarship

Sec. 4. The amount an eligible choice scholarship student is entitled to receive under this chapter for a school year is equal to the following:

(1) The least of the following:

(A) The sum of the tuition, transfer tuition, and fees required for enrollment or attendance of the eligible choice scholarship student at the eligible school selected by the eligible choice scholarship student for a school year that the eligible choice scholarship student (or the parent of the eligible choice scholarship student) would otherwise be obligated to pay to the eligible school.

(B) An amount equal to:

(i) ninety percent (90%) of the state tuition support amount determined under section 5 of this chapter if the eligible choice scholarship student is a member of a household with an annual income of not more than the amount required for the eligible choice scholarship student to qualify for the federal free or reduced price lunch program; and

(ii) fifty percent (50%) of the state tuition support amount determined under section 5 of this chapter if the eligible choice scholarship student is a member of a household with an annual income of, in the case of an individual not described in section 2.5 of this chapter, not more than one hundred fifty percent (150%) of the amount required for the eligible choice scholarship student to qualify for the federal free or reduced price lunch program or, in the case of an individual described in section 2.5 of this chapter, not more than two hundred percent (200%) of the amount required for the eligible choice scholarship student to

qualify for the federal free or reduced price lunch program.
(2) In addition, if the eligible choice scholarship student has been identified as eligible for special education services under IC 20-35 and the eligible school provides the necessary special education or related services to the eligible choice scholarship student, any amount that a school corporation would receive under IC 20-43-7 for the eligible choice scholarship student if the eligible choice scholarship student attended the school corporation.

As added by P.L.92-2011, SEC.10. Amended by P.L.211-2013, SEC.11; P.L.205-2013, SEC.311; P.L.26-2014, SEC.1; P.L.213-2015, SEC.233.

IC 20-51-4-4.5

Special education or related services for eligible choice scholarship students; adoption of rules

Sec. 4.5. (a) If an eligible choice scholarship student:

- (1) who attends school at a choice scholarship school; and
- (2) who is eligible to receive special education funds under IC 20-43-7;

chooses to receive special education services at a school corporation required to provide special education services to the eligible choice scholarship student under 511 IAC 7-34-1, the special education funds under IC 20-43-7 for that student will be made available to the school corporation where the student receives special education services.

(b) Notwithstanding 511 IAC 7-34-1(d)(4), a public school is not required to make available special education and related services to an eligible choice scholarship student if the eligible choice scholarship student receives funds under section 4(2) of this chapter and the special education services are provided to the eligible choice scholarship student by the eligible school. This subsection may not be construed as a restriction or limitation on any of the rights, benefits, and protections granted to an individual under the federal Individuals with Disabilities Education Improvement Act of 2004 (20 U.S.C. 1400 et seq.).

(c) A school corporation may not include an eligible choice scholarship student who receives an amount under section 4(2) of this chapter in the school corporation's count under IC 20-43-7.

As added by P.L.211-2013, SEC.12. Amended by P.L.26-2014, SEC.2.

IC 20-51-4-4.6

State board; rulemaking for provision of special education services

Sec. 4.6. (a) The state board shall adopt rules under IC 4-22-2, including emergency rules adopted in the manner provided under IC 4-22-2-37.1, for the provision of special education or related services to an eligible choice scholarship student who receives an amount under section 4(2) of this chapter. The rules adopted under

this section shall include annual reporting requirements, monitoring, and consequences for noncompliance by an eligible school.

(b) An emergency rule adopted by the state board under this section expires on the earliest of the following dates:

- (1) The expiration date stated in the emergency rule.
- (2) The date the emergency rule is amended or repealed by a later rule adopted under IC 4-22-2-22.5 through IC 4-22-2-36 or under IC 4-22-2-37.1.
- (3) One (1) year after the date the emergency rule is adopted.

As added by P.L.211-2013, SEC.13.

IC 20-51-4-5

Determination of state tuition support

Sec. 5. The state tuition support amount to be used in section 4(1)(B) of this chapter for an eligible choice scholarship student is the amount determined under the last STEP of the following formula:

STEP ONE: Determine the school corporation in which the eligible choice scholarship student has legal settlement.

STEP TWO: Determine the amount of state tuition support that the school corporation identified under STEP ONE is eligible to receive under IC 20-43 for the state fiscal year in which the current school year begins, excluding amounts provided for special education grants under IC 20-43-7 and career and technical education grants under IC 20-43-8.

STEP THREE: Determine the result of:

- (A) the STEP TWO amount; divided by
- (B) the current ADM (as defined in IC 20-43-1-10) for the school corporation identified under STEP ONE for the state fiscal year used in STEP TWO.

As added by P.L.92-2011, SEC.10. Amended by P.L.6-2012, SEC.145; P.L.211-2013, SEC.14.

IC 20-51-4-6

Prorating of scholarship; eligible individual entitled to one scholarship per year

Sec. 6. (a) If an eligible choice scholarship student enrolls in an eligible school for less than an entire school year, the choice scholarship provided under this chapter for that school year shall be reduced on a prorated basis to reflect the shorter school term.

(b) An eligible choice scholarship student is entitled to only one (1) choice scholarship for each school year. If the eligible choice scholarship student leaves the eligible school for which the eligible choice scholarship student was awarded a choice scholarship and enrolls in another eligible school, the eligible choice scholarship student is responsible for the payment of any tuition required for the remainder of that school year.

As added by P.L.92-2011, SEC.10. Amended by P.L.211-2013, SEC.15.

IC 20-51-4-7

Department to administer program; rulemaking

Sec. 7. (a) The department shall administer this chapter.

(b) The department shall approve an application for an eligible school within fifteen (15) days after the date the school requests to participate in the choice scholarship program.

(c) The department shall approve an application for a choice scholarship student within fifteen (15) days after the date the student requests to participate in the choice scholarship program.

(d) Each year, at a minimum, the department shall accept applications from March 1 through September 1 for:

(1) choice scholarship students; or

(2) eligible schools;

for the upcoming school year.

(e) This chapter may not be construed in a manner that would impose additional requirements for approving an application for an eligible school placed in a "null" or "no letter grade" category established under IC 20-31-8-3(b).

(f) The department shall adopt rules under IC 4-22-2 to implement this chapter.

(g) The department may adopt emergency rules under IC 4-22-2-37.1 to implement this chapter.

As added by P.L.92-2011, SEC.10. Amended by P.L.211-2013, SEC.16; P.L.239-2015, SEC.13.

IC 20-51-4-8

Forms and methods for determining eligibility

Sec. 8. The department may prescribe forms and methods for demonstrating eligibility for a choice scholarship under this chapter.

As added by P.L.92-2011, SEC.10.

IC 20-51-4-9

Consequences for eligible schools in lowest performance categories

Sec. 9. (a) The department shall enforce the following consequences for an eligible school that is nonpublic:

(1) If the school is placed in either of the lowest two (2) categories or designations under IC 20-31-8-3 for two (2) consecutive years, the department shall suspend choice scholarship payments for one (1) year for new students who would otherwise use a choice scholarship to attend the school.

(2) If the school is placed in either of the lowest two (2) categories or designations under IC 20-31-8-3 for three (3) consecutive years, the department shall suspend choice scholarship payments for new students who would otherwise use a choice scholarship to attend the school until the school is placed in the middle category or higher category or designation, for two (2) consecutive years.

(3) If the school is placed in the lowest category or designation under IC 20-31-8-3 for three (3) consecutive years, the

department shall suspend choice scholarship payments for new students who would otherwise use a choice scholarship to attend the school until the school is placed in the middle category or higher category or designation, for three (3) consecutive years.

(4) Students who:

(A) are currently enrolled at a school described in subdivision (1), (2), or (3); and

(B) qualify for a choice scholarship for the upcoming school year;

may continue to receive a choice scholarship at the school.

(b) This section may not be construed to prevent a student enrolled in a school subject to this section from applying for a choice scholarship in the future at another participating school.

As added by P.L.92-2011, SEC.10.

IC 20-51-4-10

Distribution to both eligible individual and school

Sec. 10. The department shall distribute choice scholarships at least once each semester, or at equivalent intervals. The department may distribute the choice scholarship to the eligible choice scholarship student (or the parent of the eligible choice scholarship student) for the purpose of paying the educational costs described in section 4(1)(A) of this chapter. For the distribution to be valid, the distribution must be endorsed by both the eligible choice scholarship student (or the parent of the eligible choice scholarship student) and the eligible school providing educational services to the eligible choice scholarship student.

As added by P.L.92-2011, SEC.10. Amended by P.L.211-2013, SEC.17.

IC 20-51-4-11

Scholarship not treated as income

Sec. 11. The amount of a choice scholarship provided to an eligible choice scholarship student shall not be treated as income or a resource for the purposes of qualifying for any other federal or state grant or program administered by the state or a political subdivision.

As added by P.L.92-2011, SEC.10. Amended by P.L.211-2013, SEC.18.