



Book	Policy Manual
Section	Volume 33, No. 1 - November 2020
Title	Overview
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## INDIANA OVERVIEW AND COMMENTS

### **Volume 33, Number 1 November, 2020**

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This update includes proposed revisions to sixteen (16) policies and proposed revisions to six (6) administrative guideline, and a memo regarding Drinking Water in School Buildings. The proposed revisions to current policies as well as the new policies and guidelines that are provided are the result of our ongoing work with our Indiana clients, as well as our ongoing review of statutory language at the State and Federal level, court decisions, et cetera. The revisions recommended in this update are deemed necessary to comply with changes in the law, both State and Federal.

Legislation approved during the last legislative session has been the subject of scrutiny by Neola and its Indiana outside counsel, Karen Glasser Sharp of Lewis Kappes. As is our practice, Neola will make revisions to policies and guidelines impacted by legislation passed in the most recent session of the General Assembly in the update that follows this Fall.

For ease of use, the policies, guideline, and legal alert in this update are organized in numerical order in the sub-folder that has been posted in the School Corporation's folder on the VPN or in the hard copy packet if your Corporation still chooses to receive its material in that form.

However, policies from multiple sections are grouped together in this Overview when and if the explanation is the same for the proposed revisions to a group of policies/guidelines.

## **Questions?**

Any content-related questions should be directed to your Corporation's associate.

All production related questions should be directed to the Coshocton Production Office at 632 Main Street, Coshocton, Ohio 43812 (email [production@neola.com](mailto:production@neola.com), phone 800-407-5815, fax 740-622-2557).

Billing questions should be directed to the Corporate Office at 3914 Clock Pointe Trail, Suite 103, Stow, Ohio 44224 (email [mchapman@neola.com](mailto:mchapman@neola.com), phone 330-926-0514, fax 330-926-0525).

## The Update Material

The proposed new and revised policies included in this update have been thoughtfully prepared and have been reviewed by Lewis Kappes, Neola's outside legal counsel in Indiana, for compliance with Federal and State law, Federal and State Regulatory Agencies, and applicable Federal and State court decisions.

If you make substantive changes to a Neola template, or substitute in its entirety a policy or other material of your own drafting, that material should be reviewed by the legal counsel for your Corporation to verify compliance with applicable laws, regulations and court decisions. Neola does not review any Corporation-Specific Material.

If the Corporation authors language and adds it to a policy template or deletes content that is not marked as a choice in the policy template, then these actions will constitute Corporation-specific edits. Neola does not review Corporation-specific edits to update materials or Corporation-specific policies for statutory compliance. (See "Caveat RE: Corporation-Specific Edits" below.)

If a policy or guideline is marked revision, the proposed revisions will include material to be added and material to be deleted. As you review a revised policy or guideline, you may choose to accept one, many or all of the changes presented.

If a policy or guideline is marked as a replacement, that means there have been enough changes made that instead of showing each individual change, a complete, clean replacement copy has been provided. As you review a replacement policy or guideline, you should also compare the replacement materials to your current policy or guideline to determine if there is some Corporation-specific wording in your current material that you want included in the replacement policy. If so, any wording from the current policy should be added using BoardDocs "Track Changes" tool before returning the replacement policy electronically to the Coshocton production office for processing.

Policies that are to be deleted from the Corporation's Board-adopted Policy Manual require School Board action to rescind the policy.

Your Neola Associate will contact you in the near future to schedule an appointment to review this update and ensure you are current on this and previous updates.

If you are not an administrative guidelines client, you did not receive those materials in this packet. Contact your Associate for more information about becoming an

administrative guidelines client.

## Submitting Material

**The Corporation can incorporate the proposed edits in the Update documents into the Corporation's current policies using "Track Changes" or the editing tool in the BoardDocs platform. Mark the current materials indicating which of the proposed revisions and additions you choose to include and/or to make additional edits, before presenting them to the Board for adoption. After adoption, return the materials on the BoardDocs policy site to Neola for processing and publishing. Please be sure to leave the "track changes" in the marked-up version that you submit to the production office in Coshocton, Ohio.**

Please remember to email **production@neola.com** when you've posted your material and the disposition sheet so we know to go to your folder and retrieve it, and what we can expect to find there when we access it.

Please note, even if a Corporation chooses not to include a policy or administrative guideline in their management documents that describes a statutory requirement, the Corporation is still obligated to follow applicable Federal and State laws relating to that policy or guideline.

## Caveat RE: Corporation-Specific Edits

Please note also that if the Corporation chooses during any step of the Update process to incorporate Corporation-specific material into a new policy that has been proposed or insert Corporation-specific material into a current policy for which revisions have been proposed in an update issued by Neola, then the Corporation agrees to hold Neola harmless for those Corporation-specific edits and acknowledges that Neola's Warranty for legal challenges to the Corporation-specific language in that policy will be voided. In addition, *Neola* retains ownership of the text from the original policy template that remains in a policy to which Corporation-specific edits have been made. Corporation-specific materials include the following:

- A. materials from the existing materials for the Corporation that the Corporation requests be incorporated into Neola templates during the drafting process;
- B. new policies or guidelines developed in their entirety by the Corporation, exclusive of Neola; and
- C. revisions to or deletions from a Neola template that substantively depart from that template.

Further, Neola does not advocate the use or incorporation of Corporation-specific materials. Neola will, at the request of the Corporation, incorporate Corporation-specific materials into the licensed materials, with the implicit understanding that the Corporation accepts all risks associated with the decision to request that such Corporation-specific materials be incorporated. *Neola* reserves the right to, but is not obligated to, advise the Corporation to seek its own legal review of Corporation-specific materials by the school board attorney who represents the Corporation. And Neola retains the copyright to any intellectual property from its template.

## **Caveat RE: Neola's Warranty**

Neola proudly warrants that the content of the policy templates is legally correct.

**However**, when Federal and State law is amended or new provisions are added to State or Federal law and revision or replacement of an existing policy template is necessitated, the copyright date noted at the end of the policy is updated as well.

Please note, Neola's warranty applies only to the policy template with the most current copyright date. All previous iterations of the policy template are no longer warranted.

Therefore, material included in each update should be adopted if the Corporation wants assurance that their adopted policies are warranted by Neola.

## **Notifying Neola of a Challenge to the Legal Accuracy of a Policy**

The Neola staff in Indiana is vigilant in providing policy language to our clients that has been vetted for legal accuracy by our outside counsel. Should questions arise as to the legal compliance or accuracy of Neola materials, it is our expectation that our outside counsel would have the opportunity to assist in the resolution of such a claim. That can occur only if we are notified immediately upon receipt of such a challenge. Please notify Neola's corporate office (330-926-0514) if an issue arises in which such a review or assistance is necessary. To be eligible for assistance under our warranty we must be notified with ten (10) business days of the receipt of such a challenge.

## **MEMOS AND LEGAL ALERTS**

Included with this update is a legal alert on Light Duty. We have had a number of questions about the need to develop a Light Duty policy. Often these are prompted by a school corporation's worker's compensation insurance carrier, which would prefer not to pay for injured employees to remain off work. However, there is no law that requires an employer to offer Light Duty. It is purely optional to provide Light Duty. Consequently, Neola has not developed a policy as it is not required by law nor is it otherwise necessary to maintain the school corporation's operations.

A resolution has been included in this update regarding the emergency paid leave and expanded FMLA leave provisions of the Families First Coronavirus Response Act. Because these are temporary leave provisions that expire on December 31, 2020, rather than amending policies, Neola is offering this resolution for adoption by the Board.

## **BYLAWS AND POLICIES**

After reviewing the proposed revisions to the sixteen (16) current Neola policy templates, the Superintendent should recommend the adoption of the new and revised material, and the

Board should approve the Superintendent's recommendation so that the Corporation's policies are legally consistent and correct.

If one or more of the current templates to which revisions are proposed as a result of recent changes in the Indiana Code or Federal law and included in this update are not among the policies previously adopted by the Board for the Corporation, Neola recommends that the Corporation reconsider the material and adopt those templates as new policies for the Corporation.

### **Policy 1220 - Employment of the Superintendent – Revised**

The revision to this policy is proposed to incorporate the requirements of HEA 1066. The act adds a new subsection (c) to I.C. 20-28-8-6. This subsection effective June 30, 2021, limits the Board from entering into a new contract with a superintendent after the date of an election in which one or more members of the governing body are elected until January 1 of the year immediately following the year of the election. This new policy provision does not apply if the results of the election do not change the membership make-up of the Board.

The Superintendent should recommend the adoption of this revised policy if the School Board is an elected Board. An elected Board should approve the recommendation of the revised policy to keep the policy current with Indiana law.

### **Policy 2370.02 - Flex Program - Technical Correction**

This policy is revised to correct a grammatical error in the policy.

This policy can be modified pursuant to the process adopted in Board Bylaw 0131.2 - Technical Corrections.

### **Policy 2623 – Student Assessment – Revised**

This policy has been revised to reflect a new Indiana Code section, I.C. 20-32-5.1-18.4 added by Senate Enrolled Act 346, which states that “a student's score on the statewide assessment may not be the primary factor or measure used to determine whether a student is eligible for a particular course or program.” Additionally, references to outdated terminology (here, graduation examination) have been removed.

It is advised that the proposed revisions to this policy be recommended by the Superintendent and adopted by the Board so the Corporation's policy meets the requirements of current law.

### **Policy 2700 - Annual Performance Report – Revised**

The revision to this policy is to reflect the changes provided by HEA 1003 to allow the School Corporation when publishing the annual performance report in the newspaper to either publish the usual full report or in a newly described summary report. The policy also makes clear the Corporation's responsibility for providing public access to the full report on the Corporation website.

The Superintendent should recommend the adoption of this revised policy by the Board. The Board should approve the recommendation to keep the policy current with Indiana law.

**Policy 3220 - Staff Evaluation - Revised**

This policy has been revised to reflect the amendments to I.C. 20-28-11.5-4 to remove the requirement that the student statewide assessment results are an objective measure for evaluating certificated employees. The statewide assessment results may only be used when the results would improve the employee's performance rating.

The Superintendent should recommend the adoption of this revised policy by the Board. The Board should approve the recommendation to keep the policy current with Indiana law.

**Policy 5111 – Determination of Legal Settlement and Eligibility for Enrollment of Students Without Legal Settlement in the Corporation – Revised**

This policy has been revised to reflect the changes made by House Enrolled Act 1066 to I.C. 20-26-11-6.5, which require the Corporation to accept a transfer student whose parent currently is employed by the Corporation and makes an annual salary of at least (1) \$8,000 or (2) \$3,000 earned due to being included as an employee in the extracurricular portion of the Corporation's current collective bargaining agreement if the parent is a resident of Indiana and the Corporation has the capacity to accept the student.

It is advised that the proposed revisions to this policy be recommended by the Superintendent and adopted by the Board so the Corporation's policy meets the requirements of current law.

**Policy 5130 - Withdrawal from School - Technical Correction**

This policy has been corrected for a grammatical error and the addition of a statutory reference.

This policy can be modified pursuant to the process adopted in Board Bylaw 0131.2 - Technical Corrections.

**Policy 5610 - Suspension and Expulsion of Students – Revised**

This policy has been revised to reflect the impact of HEA 1066 in amending I.C. 20-33-8-18 which requires schools to allow suspended students to receive credit for all completed assignments or school work assigned during a period of suspension in the same manner as a student who was not suspended.

The Superintendent should recommend the adoption of this revised policy by the Board. The Board should approve the recommendation in order to keep the policy current with the provisions of Indiana law.

**Policy 5895 - Student Employment – Revised**

This policy was revised to meet the new requirements of SEA 409. The "work permit" is now referred to in law as an "employment certificate". The revisions to the policy also include the assigning of a staff member to serve as the employment certificate issuing officer. The issuing officer must meet the requirements of Indiana law. The revisions also address the age range of students who must secure an employment certificate in order to work, as well as, the documentation necessary to receive the employment certificate.

The Superintendent should recommend the adoption of this revised policy to the Board. The Board should approve the recommendation to keep the policy current with Indiana law.

### **Policy 8390 - Animals on School Corporation Property - Revised**

This policy has been revised to reflect that the Complaint Procedure and process for an appeal that must be utilized when a service animal will be removed and/or excluded are set forth in Policy 2260 - Nondiscrimination and Equal Education Opportunity/Access.

Further, this policy has been revised to offer two optional provisions one for allowing Emotional Support Animals on Corporation Grounds and the other allowing for a Certified Therapy Dog on Corporation Grounds. If a Corporation intends to allow for the use of either of these types of animals on Corporation property, the Superintendent should consider the inclusion of the optional language for the purposes of detailing the protocol for granting a request for the use of an emotional support animal or a certified therapy dog.

It is advised that the proposed revision regarding the Complaint Procedure to this policy be recommended by the Superintendent and adopted by the Board so the Corporation's policy meets the requirements of Board Policy.

### **Policy 8400 - School Safety - Revised**

An optional provision has been added to this policy to reflect that the Corporation may apply annually for matching grant funds from the Indiana secured school fund and within that option, it details that the Corporation shall certify to the department of homeland security that it has conducted a threat assessment for each school building it uses and that it has a memorandum of understanding (MOU) in place with a community mental health center established under State law or a provider certified or licensed by the State to provide mental or behavioral health services to students.

Further, this policy has been revised to reflect requirements established in I.C. 20-34-3-21 regarding the mandate that the Corporation must enter into a MOU with a community mental health center established under State law or a provider certified or licensed by the State to provide mental health services to students and the appropriate referral process.

The Superintendent should recommend approval of this revised policy regarding the MOU with a community mental health center established under State law or a provider certified or licensed by the State to provide mental health services to students and if the new option regarding matching fund grants will be utilized it should be incorporated into the Corporation's recommendation to the Board. The Board should approve the recommendation to keep the policy current with Indiana law.

### **Policy 8405 - Environmental Health and Safety Issues - Revised**

This policy has been revised to reflect the new I.C. 16-41-21.1-3 to provide guidance for Corporations regarding the implementation of the appropriate testing of drinking water in all school buildings prior to January 1, 2023.

The Superintendent should recommend the approval of this revised policy. The Board should approve the recommendation to keep the policy current with Indiana law.

### **Policy 8462 - Child Abuse or Neglect - Revised**

This policy has been revised to reflect new requirements established in SEA 295 that a school social worker and school psychologist are appropriate individuals to provide age-appropriate and research and evidence-based instruction on child abuse and child sexual abuse that must be annually provided for students in kindergarten through grade twelve (12).

The Superintendent should recommend the approval of this revised policy. The Board should approve the recommendation to keep the policy current with Indiana law.

### **Policy 8600 - Transportation – Revised**

This policy was revised to provide a new option for transporting students to and from career and technical education programs which has been granted in HEA 1066. If seven (7) or fewer students are being transported, an “appropriate vehicle” may be used. If more than seven (7) students are being transported, a special purpose bus or a school bus must be used.

The Superintendent should recommend approval of this revised policy if the new option providing greater flexibility is desired. The Board should approve the recommendation to keep the policy current with Indiana law.

### **Policy 8800 - Religious/Patriotic Ceremonies and Observances – Revised**

This policy has been revised to reflect the provisions of HEA 1066 about displaying the national motto. HEA 1066 has specific guidelines that must be followed if the School Corporation chooses to display the national motto. HEA 1066 does not require the display of the national motto.

The Superintendent should recommend the approval of this revised policy. The Board should approve the recommendation to keep the policy current with Indiana law.

### **Policy 9700 - Relations with Special Interest Groups - Revised**

Pursuant to SEA 398 and provisions of a new Chapter of Indiana Code, IC 20-26-20 - Patriotic Youth Membership Organizations - this policy has been revised to reflect the requirement that the Corporation provide a representative or the youth membership organization with the opportunity to provide oral or written information to students on one specific day or time annually. Further, the Corporation shall conduct an expanded criminal history check on the representative seeking the opportunity to present information to students. The representative of the youth membership organization would be responsible for all costs associated with obtaining the expanded criminal history check. The Corporation may refuse the representative access based on the receipt of the expanded criminal history check.

The Superintendent should recommend the approval of this revised policy. The Board should approve the recommendation to keep the policy current with Indiana law.

## **ADMINISTRATIVE GUIDELINES**

These following guidelines have been revised to support the aforementioned policy changes. It is recommended that the use of these revised guidelines be approved in order to keep the guideline current.

### **AG 2623 – Testing Program – Revised**



This administrative guideline has been revised to reflect a new Indiana Code section, I.C. 20-32-5.1-18.4 added by Senate Enrolled Act 346, which states that "a student's score on the statewide assessment may not be the primary factor or measure used to determine whether a student is eligible for a particular course or program." Additionally, references to outdated terminology (here, special area teachers and regular classroom teachers) have been updated.

The Superintendent should approve the use of this revised guideline to keep the guideline consistent with State requirements.

### **AG 2623A – Standardized Testing for Special Education Students – Revised**

This administrative guideline has been revised to reflect a new Indiana Code section, I.C. 20-32-5.1-18.8 added by Senate Enrolled Act 346, which requires schools provide a notice to parents of students in grades 3-5 who have an accommodation in their individualized education program ("IEP"), service plan, choice special education plan or Section 504 plan that may not be used on the statewide assessment and discuss and determine at the annual case review or applicable annual review whether the student may be eligible to opt-out of any section of the statewide assessment. Additionally, references to outdated terminology (here, ISTEP and IREAD-3) have been omitted.

The Superintendent should approve the use of this revised guideline to keep the guideline consistent with State requirements.

### **AG 5460 - Graduation Requirements – Revised**

This guideline has been revised to reflect the impact of SEA 398. School Corporation's must require students taking U. S. Government to take the naturalization examination as a part of the course and graduation requirements. The School Corporation will be required, starting with the class of 2021 and thereafter, to report to the Indiana Department of Education (IDOE) the number of students who took and naturalization test and the number who received a score of 60% or higher. This report will be sent to the IDOE in November of 2021 and each November thereafter.

It is recommended that the use of this revised guideline be approved so the guideline is consistent with the Corporation's responsibilities as per Indiana law.

### **AG 5895 – Student Employment – Revised**

This guideline was revised to provide specifics found in SEA 409 regarding the issuing of student employment certificates. The criteria for a staff member to serve as an issuing officer are detailed. The guideline contains the documentation the issuing officer may accept from a student as proof of age and proof of prospective employment. The employment certificate is necessary for most jobs, but the jobs which do not require an employment certificate are stated in the administrative guideline. Also provided in the guideline are the conditions upon which the issuing officer may deny or revoke an employment certificate.

It is recommended that the use of this revised guideline be approved so the guideline is current with Indiana law.

### **AG 8462 - Child Abuse or Neglect - Revised**

This guideline has been revised to reflect new requirements established in SEA 295 that a school social worker and school psychologist are appropriate individuals to provide age-

appropriate and research and evidence-based instruction on child abuse and child sexual abuse that must be annually provided for students in kindergarten through grade twelve (12).

The Superintendent should approve the use of this revised guideline to keep the guideline consistent with State requirements.

### **AG 8800A – Religious Activities and Ceremonies – Revised**

This guideline is revised to provide an option for the display of the national motto. The option provides the conditions and measurements which must be met if the national motto is displayed in the school.

It is recommended that the use of this option in the revised guideline be approved only if the national motto is going to be displayed in the School Corporation.