



Book	Policy Manual
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## INDIANA OVERVIEW AND COMMENTS

### **Volume 34, Number 1 October, 2021**

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This update includes proposed revisions to twenty-eight (28) policies, one (1) replacement policy, one (1) new proposed policy, proposed revisions to nine (9) administrative guidelines, and five (5) Legal Alerts and a Tool Kit. The proposed revisions to current policies as well as the new policy and revised 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, guidelines, and legal alerts in this update are organized in numerical order in the sub-folder that has been posted in the School Corporation's BoardDocs platform.

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 [accounts@neola.com](mailto:accounts@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 also should 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](mailto: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 still is 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:

1. materials from the existing materials for the Corporation that the Corporation requests be incorporated into Neola templates during the drafting process;
2. new policies or guidelines developed in their entirety by the Corporation, exclusive of Neola; and
3. 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.

### **Legal Alerts & Tool Kit**

1. School-Sponsored Student Publications and Productions Tool Kit [Policy and AG 5722]
2. Legal Alert: Federal court vacates Title IX provision that prohibits a decision-maker from relying on statements that are not subject to cross-examination during a hearing
3. Legal Alert: Diversity, Equity, and Inclusion in Public Schools
4. Legal Alert: U.S. Supreme Court Addresses Student Off-Campus Speech
5. Legal Alert: Injunction of Certain Sections of SEA 251
6. Legal Alert: (Updated) Important Questions about COVID-19 Vaccination Programs

## **BYLAWS AND POLICIES**

### **Bylaw 0167.3 - Public Participation at Board Meetings (Revised)**

This policy has been revised to provide a clear process of approval for any person or group who wants to place an item on the Board Agenda.

Further, the revision to this policy provides clear delineation between speaking as a part of the agenda or speaking about an agenda item under the terms outlined per the requirements of Public Comment.

Please make sure to take note of the option to set a time limit for Public Comment. Be sure to follow previous standards established regarding Public Comment and allow community members time to speak as defined in the policy.

It is advisable for the superintendent to recommend the policy revisions for adoption by the Board, and the Board should adopt the revised policy, given the current climate at public Board meetings.

### **Policy 1220 - Employment of the Superintendent (Revised)**

### **Policy 1520 - Employment of Administrators In Addition to the Superintendent (Revised)**

These policies have been revised pursuant to Senate Enrolled Act (SEA) 55 - School Rederendum that prohibits a corporation from issuing bonuses or other incentives to Administrators as a result of a favorable outcome of a referendum. For purposes of Indiana law, the following individuals are classified as administrators: Superintendent, Assistant Superintendent, Director of Special Education, principal, and assistant principal; however, the Corporation must designate the specific positions that they consider as administrators and thus would be subject to the provisions of this policy revision.

### **Policy 2262 - Latch-Key Programs (Revised)**

Two new options have been provided regarding the availability of a latch-key program during declared emergencies pursuant to HEA 1101. These options are available when the Corporation provides a school-aged child care or utilizes a nonprofit or for-profit organization to provide a school-aged child care program.

The Corporation is not required to select either of these options, but when these programs are offered it is important for the parameters to be established in Board Policy.

### **Policy 2370.03 - Indiana Course Access Program (Revised)**

Pursuant to State statute and the Indiana Department of Education ("IDOE") students who are pursuing a diploma with any designation available for a student in Indiana or an industry certification that appears on the State Board's approved industry certification list is eligible to participate in the Indiana course access program (iCAP). The Board should adopt this policy to establish participation requirements, as permitted by the IDOE policy development guidance, for eligible students who may request to enroll in a course offered through iCAP.

House Enrolled Act 1438 (HEA) - Course Access Program, requires that each Corporation shall respond to a student request for participation in an iCAP course not later than fifteen (15) days after submittal. The Corporation must notify the eligible student's parent or emancipated eligible student whether the school approves or denies the request for enrollment and if the request is denied, information explaining the reason for denial and the process by which the parent may appeal the decision to the IDOE. HEA 1438 also amended the reasons for denial of enrollment in an iCAP course. House Enrolled Act 1549 added a provision requiring the Corporation to notify the IDOE if it denies a student's enrollment in an iCAP course, including the reason for the denial.

If previously adopted, the Superintendent should recommend approval of these revisions. The Board should adopt the revised policy to comply with State statute.

If this policy has not been formerly considered, the Superintendent should recommend the policy as a new policy to the Board for approval. The Board should adopt the policy to comply with State statute and IDOE recommendations.

### **Policy 2603 - School Performance Internet Dashboard (New)**

This new policy, pursuant to HEA 1514, requires the State Board of Education to develop required data points that each school will place on a "dashboard" on the Corporation's webpage. Although the State Board of Education has not yet finalized the required data points, and will do so later this fall, each Corporation can choose to add additional data points that the school would like to highlight to promote programs or areas of effectiveness important to their community. At a minimum, the Corporation must include: indicators of student performance in elementary school, middle school and high school; the school's

graduation rate, as applicable; the percentage of high school graduates who earned college credit before graduating, as applicable; the pass rate of the statewide assessment program tests; the growth data of the statewide assessment program tests, as applicable; the attendance rate; and State, national and international comparisons for the indicators, as applicable.

The Superintendent should recommend adoption of this new policy to the Board, and the Board should adopt the new policy to comply with State law.

**Policy 3120.08 - Employment of Personnel For Extracurricular Activities (Revised)**  
**Policy 4120.08 - Employment of Personnel For Extracurricular Activities (Revised)**  
**Policy 8455 - Coach Training, References, and IHSAA Reporting (Revised)**

These policies have been revised to include a marching band leader or a sponsor of an activity in which a student has an increased risk of sudden cardiac arrest, as determined by the IDOE, to participate in the same training on sudden cardiac arrest as athletic coaches pursuant to the revision of I.C. 20-34-8 by HEA 1040. The documentation of completion of the course on sudden cardiac arrest for the marching band leader and activity sponsor should be retained in the same manner as those for athletic coaches.

The Superintendent should recommend the approval of these revisions to the Board. The Board should adopt the revised policies to align with new State statutes.

**Policy 3120.11 - Public Hearing Before Commencement of Collective Bargaining (Revised)**

A public meeting has been added to discuss a Tentative Agreement, allow for public comment, and the meeting must be conducted at least seventy-two (72) hours prior to a Board vote on the agreement. Additionally, the agreement must be posted on the Corporation website within fourteen (14) days, pursuant to the amendment of I.C. 20-29-6 by HEA 1549, and must include a provision specifying when the public meeting occurred. The statutory amendments also allow for Board members and the public to participate in the public meeting by electronic communication.

The Superintendent should recommend adoption of the revised policy to the Board, and the Board should adopt the revised policy to comply with current State law.

**Policy 3214/4214 - Staff Gifts (Revised)**

The word Christmas has been replaced by "some special holidays" in these policies to make the content secular in nature.

The Superintendent should recommend the Board approve the revision to these policies, and the Board should adopt the revised policies, to utilize non-secular content in policy language.

**Policy 3220 - Staff Evaluation (Revised)**

Revisions made to this policy reflect the amendment of I.C. 20-28-11.5-4 by HEA 1002 regarding the components of teacher evaluations. Notwithstanding current Indiana code, objective measures from statewide assessments taken in the Spring of 2019 and 2020 cannot be used for a certificated employee's performance evaluation unless these scores or the particular school's improvement category would improve the certificated employee's annual performance rating.

Further, there are several deletions to this policy to comply with the Indiana Administrative Code at 511 I.A.C. 10-6-4.

If the objective measures are not used, all other measurers must be increased proportionately to replace them.

The Superintendent should recommend adoption of the revised policy to the Board, and the Board should adopt the revised policy to comply with State law.

### **Policy 5113.02 - School Transfer Options (Revised)**

This policy has been revised to comply with the provisions of the Elementary and Secondary Schools Act (ESEA), as amended by the Every Student Succeeds Act (ESSA), and current IDOE procedures for the unsafe school choice option.

The Superintendent should recommend approval to the Board to keep the policy compliant with federal law and related IDOE rules. The Board should adopt the revised policy to maintain current and compliant policies.

### **Policy 5340.01 - Student Concussions and Sudden Cardiac Arrest (Revised)**

This policy has been revised to modify the existing requirements for completing a certified education approved training course for sudden cardiac arrest to include a marching band leader or a sponsor of an activity in which a student has an increased risk of cardiac arrest.

All applicable students, now to include marching band participants and students participating in an extracurricular activity with an increased risk of cardiac arrest, and their parents shall receive information on sudden cardiac arrest. Each applicable student must acknowledge receipt of this information by completing an acknowledgement form. This acknowledgement form shall be maintained on file by the marching band leader or designated school official. Any participating student in one of the applicable activities who is experiencing symptom of cardiac arrest must have written permission from parents for them to practice or play.

The Superintendent should recommend approval of these revisions. The Board should adopt the revised policy to comply with State statute.

### **Policy 5460 - Graduation Requirements (Revised)**

Pursuant to Senate Enrolled Act (SEA) 101, what shall be included in and when the School Corporation must prepare each student's graduation plan have been modified. The policy has been revised to incorporate an option because a graduation plan is a requirement of I.C. 20-30-4-2; however, it is not mandated to be part of the Corporation's graduation requirement policy. The Corporation would not withhold a diploma for failure to have a graduation plan, however, this language is provided to highlight the requirements and identifies what training all Corporation counselors should have training in regarding these statutory requirements.

It is advisable for the Superintendent to recommend the policy revisions for adoption by the Board, and the Board should adopt the revised policy to remain compliant with State law.

### **Policy 5540 - The Schools and Governmental Agencies (Revised)**

This policy is revised to account for HEA 1531 adding a new Indiana Code provision, I.C. 31-9-2-44.1 that defines "exigent circumstances" and includes the criteria for which DCS may be granted permission to interview a student alone at school.

The Superintendent should recommend adoption of the revised policy to the Board, and the Board should adopt the revised policy to comply with current State law.

### **Policy 5722 - School-Sponsored Student Publications and Productions (Replacement)**

This replacement policy is proposed because of the wide variety of school-sponsored student media that are present in schools today and due to the many technological advances that have occurred. These revisions are driven by the impact of social media on student publications and productions and are based on the evolving social media environment.

The policy, as before, provides several options available to the Board regarding the type of forum that will be provided and what level of review and regulation will occur. The language in the policy has been modified to encompass the newer online electronic forms of school-sponsored student media. The policy provides four options to consider for the classification and regulation of such publications and production.

A toolkit has been provided to assist Corporation staff in their review of the replacement policy and revisions to the administrative guideline.

The recommendations made in this policy should be carefully considered when addressing the evolving student media environment and language should be adopted that best fits the Corporation's needs.

### **Policy 6105 - Authorization To Accept and Distribute Electronic Records and To Use Electronic Signatures (Technical Correction)**

This policy is being corrected by adding one statutory citation and providing a reference to a memorandum from the State Board of Accounts regarding electronic signatures.

This technical correction does not require adoption of the revised policy by the Board if the Corporation's bylaws, specifically Bylaw 0131.2, permit technical amendments without Board approval.

### **Policy 6114 - Cost Principles - Spending Federal Funds (Revised)**

This policy has been revised to provide greater detail in allow ability guidance for corporations regarding the expenditure of federal funds. There has been a significant increase in funding for Corporations through the third pandemic stimulus bill dubbed the American Rescue Plan, providing \$122 billion in Elementary and Secondary School Emergency Relief (or ESSER III) funds. While the policy accurately referenced definitions and restrictions cited in various sections of 2 C.F.R. 200, greater specificity has been requested by program reviewers and auditors.

Revisions to this policy should be recommended by the Superintendent and adopted by the Board in order to maintain accurate policies that meet audit requirements.

### **Policy 6220 - Budget Preparation (Revised)**



This revision includes a strike-through of content that refers to academic, instructional support, overhead and operation, and non-operational expenditures that are no longer a required part of budget preparation.

The Superintendent should recommend adoption of the revised policy to the Board, and the Board should adopt the revised policy to comply with current State law.

### **Policy 6230 - Budget Hearing (Revised)**

If a referendum levy is included in the proposed budget, a spending plan must be included at the public hearing, pursuant to SEA 55 amendments. The spending plan is to include an estimate of expected revenue from the referendum, specific purpose of the funds generated by the referendum and an estimate of expenditures in annual dollar amounts.

The Superintendent should recommend including this option in this policy if the Corporation has or anticipates having a referendum tax levy. The Board should adopt the revised policy to align with current State law.

### **Policy 7300 Disposition of Real Property (Revised)**

Pursuant to SEA 385 revisions have been made regarding the sale or lease of unused or vacant property.

Specifically, school corporations are to provide for the maintenance of unused or vacant buildings until leased, sold or disposed of. Requires the Board request certification of compliance with I.C. 20-26-7-1 from the Attorney General.

The Superintendent should recommend adoption of the revised policy to the Board, and the Board should adopt the revised policy to comply with current State law.

### **Policy 7310 - Disposition of Surplus Property (Revised)**

Pursuant to I.C. 20-26-5-40.2, it is the obligation of the Board to develop a plan related to the preservation or transfer of memorabilia, trophies, or other property of historical significance, as determined by the Board if a resolution to close a high school has been passed.

The plan must be posted to the Corporation website and available for public inspection.

It is advisable for the Superintendent to recommend the policy revisions for adoption by the Board, and the Board should adopt the revised policy to remain compliant with State law.

### **Policy 7450 - Property Inventory (Revised)**

A drafting note has been added to this policy noting the federal threshold of \$5,000 for differentiating between supplies/materials and a capital expenditure for equipment purchase. See the note on Policy 6114 - Cost Principles - Spending Federal Funds.

This policy may need to be revised if the Corporation's current policy uses an equipment/inventory threshold higher than \$5,000.

### **Policy 7540.03 - Student Technology Acceptable Use and Safety (Revised)**

### **Policy 7540.04 - Staff Technology Acceptable Use and Safety (Revised)**

These policies have been revised to include language reflecting the State law requirements that specifically prohibit the sending, receiving, viewing, or downloading of materials harmful to minors and it mandates that this content must be posted on the corporation website.

The Superintendent should recommend approval of these policy revisions. The Board should adopt the policies to reflect the language of State statute.

### **Policy 8305 - Information Security (Revised)**

This policy has been revised to include policy language that the school will work to protect data from attack vectors. Categories of attack vectors of a cybersecurity incident are identified. Also, it requires the Superintendent to outline a method for maintaining a repository of cybersecurity incidents.

The Superintendent should recommend adoption of the revised policy to the Board, and the Board should adopt the revised policy to maintain policies that address current technology issues.

### **Policy 8600 - Transportation (Revised)**

Pursuant to 2021 legislative revisions to I.C. 20-27-5-6 by HEA 1549, a school corporation may enter into a fleet contract with a contractor and permit the contractor's drivers to be eligible for life and health insurance benefits and other fringe benefits available to other school personnel. In addition, the statute was amended to allow the Corporation to enter a fleet agreement with a Transportation Network Company as defined by State law to transport students provided the Corporation conducts an expanded criminal history check and expanded child protection index check of each driver transporting students. The Transportation Network Company is like a ride-share company or similar provider.

These optional provision to Policy 8600 should be recommended by the Superintendent if the Corporation is considering entering into such agreements or to provide the Corporation the flexibility to enter such arrangements. If recommended by the Superintendent, the Board should adopt the revisions to be aligned with existing State statutes.

## **ADMINISTRATIVE GUIDELINES**

### **AG 1520 - Administrator Contract (Deleted)**

See note on Policy 1520.

### **AG 2370.03 - Indiana Course Access Program (iCAP) (Revised)**

Within fifteen (15) days of a request to take a course through iCap, the request must be approved or denied. If no action is taken in the fifteen (15) days, the request is approved. Must report denials to the Indiana Department of Education along with the reason for the denial. (See also Policy 2370.03)

The administrative guideline delineates the responsibilities of the various individuals appointed to supervise enrollment of students in iCAP courses. Details that are duplicative of the policy provisions have been deleted.

The Superintendent should approve this revised administrative guideline if the Board adopts Policy 2370.03

#### **AG 5113.02 - School Transfer Options (Revised)**

This administrative guideline has been revised to comply with the provision of the ESEA, as amended by the ESSA, and the IDOE procedures for the unsafe school choice option.

The Superintendent should approve this guideline to keep the guideline compliant with federal law and related IDOE procedures.

#### **AG 5460 - Graduation Requirements (Revised)**

This administrative guideline has been revised to indicate that the successful completion of Cambridge International courses shall count as high school credit towards the completion of Indiana Graduation requirements. Further, the completion of Cambridge International A or AS level courses fulfill the requirements for an Indiana diploma with a Core 40 Academic Honors designation.

The Superintendent should approve this revised guideline to keep the guideline compliant with State law.

#### **AG 5460A - Graduation Examination (Revised)**

This revision permits a student to not take the graduation examination during the 2020-2021 school year if the student could not take the graduation examination as a result of Covid-19.

The Superintendent should approve this revised guideline to keep the guideline compliant with State law.

#### **AG 5540A - Relationship with Governmental Agencies (Revised)**

Language has been provided to identify when an agency, such as DCS may be given permission to interrogate a student on Corporation property.

The Superintendent should approve this revised guideline to keep the guideline compliant with State law.

#### **AG 5722 - School-Sponsored Student Publications and Productions (Revised)**

School-sponsored publications and productions are defined. Corporations should take action related to monitoring the postings on school-sponsored student media. The Superintendent should work through the options that are related to school sponsored student media, some of these choices relate to the removal of postings on school-sponsored publications and productions.

See also note on Policy 5722.

The Superintendent should approve this guideline to keep the guideline compliant with federal and State law and ensure the choices are selected that work best for the Corporation and its views on supervision of school-sponsored student publications and productions.

#### **AG 7540.03 - Student Technology Acceptable Use and Safety (Revised)**

#### **AG 7540.04 - Staff Technology Acceptable Use and Safety (Revised)**

These administrative guidelines have been revised to include language reflecting the State law requirements that specifically prohibit the sending, receiving, viewing, or downloading of materials harmful to minors and it mandate that this content must be posted on the corporation's website.

The Superintendent should approve these administrative guidelines to be consistent with the Corporation policy statement and State law.

## **COMMENTS**

### **Reviewing Board Minutes**

A feature of your subscription to the Update Service is the review of your Corporation's Board minutes to identify action that results in new policy or revision to existing policy. If such action has been taken and copies of the related materials have not been submitted to the Coshocton Office, the Corporation will be contacted and additional information regarding the action will be requested.

This submission should occur as soon as the minutes for a board meeting are approved. Submitting minutes a year, two, or even three later is not what Neola intends.

Please take advantage of this valuable service by sending copies of your Board minutes to the Coshocton Office for review.