



Compulsory School Attendance¹

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The Rules of the Indiana State Board of Education regarding school attendance apply to any person less than eighteen (18) years of age who is domiciled in Indiana or intends to remain in Indiana for a period established by rule of the state board. Ind.Code § 20-33-2-3. A child is required to enroll in school at the beginning of the fall school term for the school year in which the student becomes seven (7) years of age. Ind.Code § 20-33-2-6. However, a child is not bound to enroll in school until the age of seven (7) if, upon request of the superintendent of the school corporation, the parent certifies to the superintendent that the parent intends to enroll the student in a nonaccredited, nonpublic school; or intends to begin providing the student with instruction equivalent to that given in the public schools not later than the date on which the student becomes seven (7) years of age. Ind Code § 20-33-2-8. Additionally, a student may enroll in school if he or she is five (5) years of age on August 1 of the school year. Ind.Code § 20-33-2-7. Parents of a child younger than five (5) years of age may appeal to the superintendent in order to seek enrollment. *Id.*

A child is required to be enrolled in school until the student graduates, becomes eighteen (18) years of age, or becomes sixteen (16) years of age and satisfies the withdrawal requirements. Ind.Code § 20-33-2-6. As of July 1, 2006, a student who is at least sixteen (16) years of age but less than eighteen (18) years of age may not withdraw from school unless the student, the student's parent, and the principal agree to the withdrawal. Ind.Code § 20-33-2-9 as amended by P.L. 1-2005, Sect. 17. The student's parent and the school principal must each

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provide written consent for the student to withdraw from school. *Id.* The student must also conduct an exit interview personally attended by the student's parent, the student, each designated appropriate school employee, and the student's principal. *Id.* During the exit interview, the student must provide written acknowledgement of withdrawal that states that the student and parent understand that withdrawing from school is likely to reduce the student's future earnings and increase the student's likelihood of being unemployed in the future. *Id.* The withdrawal must be due to financial hardship (the individual must be employed to support the individual's family or dependent), illness, or an order by a court that has jurisdiction over the student. *Id.* Additionally, with the approval of the state board, a superintendent may exclude or excuse a student found mentally or physically unfit for school attendance. Ind.Code § 20-33-2-46.

It is unlawful for a parent to fail to ensure that the parent's child attends school as required. Ind.Code § 20-33-2-27. However, before proceedings are instituted against a parent for this violation, the superintendent or his designee must serve personal notice on the parent. *Id.* Personal notice must consist of and take place at the time of the occurrence of the date of personal delivery of notice, the date of receipt of the notice sent by certified mail, or the date of leaving notice at the last and usual place of residence of the parent. *Id.* Subsequent violations that occur during the notice period do not require further notice unless the original violation is terminated within one (1) school day after notice was given. *Id.* In *Hamilton v. State*, 694 N.E.2d 1171, 1172 (Ind. Ct. App. 1998), the Court reversed a mother's conviction for failure to ensure that her child attends school, ruling that the State failed to meet its burden of proof that mother received notice in the required form. The Court ruled that notification of the parent by standard, as opposed to certified, mail was not sufficient. *Id.*

A student is required to attend either a public school or another school taught in the English language. Ind.Code § 20-33-2-4. A student must attend school each year for the number of days public schools are in session where the student resides in Indiana or where the student is enrolled, if the student is enrolled outside of Indiana. Ind.Code § 20-33-2-5. Each public or private school may require a student who initially enrolls in the school to provide the name and address of the school the student last attended and a certified copy of the student's birth certificate or other reliable proof of the student's date of birth. Ind.Code § 20-33-2-10. A school

that is nonpublic, nonaccredited, and not otherwise approved by the state board is not bound by any requirements with regard to curriculum or the content of educational programs offered by the school. Ind.Code § 20-33-2-12.

However, it is unlawful for a parent to fail, neglect, or refuse to send the parent's child to a public school for the full term unless the child is being provided with instruction equivalent to that given in public schools. Ind.Code § 20-33-2-28. In *Mazanec v. North Judson-San Pierre Sch. Corp.*, 614 F.Supp. 1152, 1160 (N.D. Ind. 1985), aff'd, 798 F.2d 230 (7th Cir. 1986), the Court ruled that the instruction the parents provided to the children via home schooling was equivalent to that given in the public schools. Indiana law does not require parents to give notice or certification of home schooling, except Ind.Code § 20-33-2-8 authorizes a superintendent to seek certification from parents of children who will reach the age of seven (7) during the school year.

The Indiana State Board of Education has enumerated a set of lawful excuses that allow a student to be absent from school. Service as a page for or as an honoree of the General Assembly is a lawful excuse for a student to be absent from school, upon verification via a certificate of the secretary of the Senate or the chief clerk of the House of Representatives. Ind.Code § 20-33-2-14. A secondary student will be excused for serving on the precinct election board, as a helper to a political candidate, or to a political party on the date of the general, city or town, special, and primary election at which the student works. Ind.Code § 20-33-2-15. A student will also be excused from an absence if he or she is issued a subpoena to appear in court as a witness in a judicial proceeding. Ind.Code § 20-33-2-16. Any secondary school student who is ordered to active duty with the Indiana National Guard for not more than ten (10) days in a school year will also be excused. Ind.Code § 20-33-2-17.

A school may also authorize the absence and excuse of a student who attends any educationally related nonclassroom activity. Ind.Code § 20-33-2-17.5. In order to qualify as educationally related, the nonclassroom activity must be consistent with and promote the educational philosophy and goals of the school corporation and school board, facilitate the attainment of specific educational objectives, be a part of the goals and objectives of an approved course or curriculum, represent a unique educational opportunity, not reasonably occur without interrupting the school day, and be approved in writing by the school principal. *Id.*

A parent of a student may also choose not to send a student to school because of the student's illness or mental or physical incapacity. Ind.Code § 20-33-2-18. However, the parent must produce a certificate of the illness or incapacity not later than six (6) days after the certificate is demanded. *Id.* The certificate must be signed by an Indiana physician, an individual holding a license to practice osteopathy or chiropractic in Indiana, or a Christian Science practitioner who resides in Indiana and is listed in the Christian Science Journal. *Id.* In addition, a parent of a student enrolled in public school may request that the principal allow the student to attend a school for religious instruction for a period not to exceed one hundred twenty (120) minutes in total in any week. Ind.Code § 20-33-2-19.

Each school attendance officer, sheriff, marshal, and police officer in Indiana may take into custody any child who is required to attend school and is found during school hours, unless accompanied by a parent or with the consent of a parent, by a relative by blood or marriage who is at least eighteen (18) years of age; in a public place, in a public or private conveyance, or in a place of business open to the public. Ind.Code § 20-33-2-23. An officer that takes a child into custody must immediately deliver the child to the principal of the school in which the child is enrolled. *Id.* If the child is not enrolled in school, then the officer must deliver the child into the custody of the principal of the public school in the attendance area in which the child resides. *Id.* When a child is delivered into custody, the principal must immediately place the child in class in the grade or course of study in which the child is enrolled or to which the child may be properly assigned. Ind.Code § 20-33-2-24. The principal must then attempt to advise the child's parent of the facts of the case by telephone and must also advise the child's parent by mail on the same day the principal receives the child. *Id.*