

REVISED POLICY VOL. 28, NO. 1

DETERMINATION OF LEGAL SETTLEMENT AND ELIGIBILITY  
FOR ENROLLMENT OF STUDENTS WITHOUT LEGAL SETTLEMENT  
IN THE CORPORATION

~~The Board establishes the following policy for determining student eligibility to attend the schools of this Corporation:~~

- ~~A. The Board will educate, tuition free, students who have legal settlement in the Corporation, and students enrolled according to the requirements of I.C. 20-26-11.~~
- ~~B. Where the legal settlement of a student cannot reasonably be determined by reference to the residence of the student's parent or legal guardian and the student is being supported by and living with a person whose residence is within the Corporation, the student may be enrolled without payment of tuition. If the parents are able to support the student and have placed the student in the home of another person primarily for the purpose of attending school in this Corporation without establishing legal guardianship as required by Indiana law, tuition ( ) will be charged ( ) will not be charged unless otherwise required by law ( ) may be charged according to Board Policy 6150.~~

~~[NOTE: Under the law, a corporation may charge tuition to some students, but not others. Choosing this option is NOT RECOMMENDED. All students should be treated the same to avoid claims of discrimination.]~~

- ~~C. A child who is placed in foster care by a court of competent jurisdiction shall be admitted tuition free, without regard to residency, to a school within the Corporation, as selected by the State Department of Human Services or the child placing agency responsible for placement of that child.~~
- ~~D. Foreign students participating in a foreign exchange program approved by the Indiana State Board of Education and living with a resident host family will be admitted tuition free.~~

- ~~E. The Corporation will provide a free education to those students who are considered by Federal law to be illegal aliens, if the student's parent or legal guardian has legal settlement within the Corporation, or considered to be homeless by criteria established by the State (see Policy 5111.01 and AG 5111.01 Homeless Students).~~
- ~~F. Students who have completed the eleventh grade and have changed legal settlement to another school corporation may complete the twelfth grade in this Corporation.~~
- ~~G. A married student living with a spouse or a married or unmarried emancipated minor is eligible to attend school without payment of tuition if the student resides in the Corporation.~~

~~H. Children of Divorced Parents~~

~~Children of divorced parents may attend school in this Corporation without the payment of tuition if one (1) parent resides in this Corporation and a timely<sup>an</sup> election is made utilizing the "Custodial Statement and Agreement: Divorce, Separation, or Abandonment" form provided by the Indiana State Board of Education.~~

~~The parent with physical custody of the student or the student, if the student is at least eighteen (18) years of age, must notify the Superintendent of the school corporation in which the parents/student seek to have the student enrolled of their election to enroll the student in the Corporation. The election shall be made on a yearly basis and applies throughout the school year unless the student's parent no longer resides within the attendance area of the Corporation. Not later than fourteen (14) days before the first student day of the school year for which the parent seeks enrollment, the parent with physical custody of the child must notify the Superintendent of the school corporation in which the parents seek to have the student enrolled of their election to enroll the child in the Corporation. The election may be for no less than one (1) school year.~~

~~(-) A student who has been expelled from another school corporation or who is expelled from a nonpublic school or withdraws from a public or a nonpublic school to avoid expulsion may be enrolled in the Corporation in compliance with I.C. 20-33-8-20 during the actual or proposed expulsion if:~~

- ~~1. the student's parent informs the Corporation of the student's expulsion or withdrawal to avoid expulsion;~~
- ~~2. the Corporation consents to the student's enrollment;~~
- ~~3. the student agrees to the terms and conditions of enrollment established by the Corporation.~~

~~Such students **(-) will be charged (-) will not be charged unless otherwise required by law (-) may be charged** tuition according to Board Policy 6150 if they do not have legal settlement in the Corporation.~~

~~**[NOTE: Under the law, a corporation may charge tuition to some students, but not others. Choosing this option is NOT RECOMMENDED. All students should be treated the same to avoid claims of discrimination.]**~~

~~If a student's parent fails to inform the Corporation of the expulsion or withdrawal to avoid expulsion or the student fails to follow the terms and conditions established for enrollment, the Corporation may withdraw consent and prohibit the student's enrollment during the period of the actual or proposed expulsion. Before consent is withdrawn, the student must be given an opportunity for an informal meeting with the principal. At the informal meeting, the student is entitled to:~~

- ~~1. a written or verbal statement of the reasons for the withdrawal of consent;~~
- ~~2. a summary of the evidence against him/her;~~
- ~~3. an opportunity to explain his/her conduct.~~

- ~~(-) Students whose parents do not have legal settlement within the Corporation but who present evidence that they will move into the Corporation within a short period of time may enroll in the schools of this Corporation as tuition students for the time not in residence.~~
- ~~(-) Students who do not have legal settlement may/will be enrolled in the special education program of this Corporation pursuant to the provisions of a Cooperative agreement. [NOTE: Check with your Cooperative agreement.]~~
- ~~(-) Nonresident students may be accepted into the Summer School Program provided by this Corporation.~~

Transfer Students

**CHOOSE ONE OF THE FOLLOWING OPTIONS:**

**[ ] Option #1**

~~The Corporation shall enroll only those students who have legal settlement in the Corporation. The Corporation does not enroll students who do not have legal settlement as determined pursuant to I.C. 20-26-11 unless there was a policy in 2012-2013 school year that allowed students who do not have legal settlement to enroll in the Corporation. Those students, as well as students in the same household of a student who was enrolled in 2012-2013 whether or not that student attended a public school or accredited nonpublic school may enroll for the current year. The governing body of the Corporation may authorize the transfer of a student from an accredited nonpublic school or charter school to a school within the school corporation.~~

**Transfer Student Whose Parent Is Employed by the Corporation:**

~~The Corporation shall accept a transferring student who does not have legal settlement in the Corporation and whose parent is a current employee of the Corporation who resides in Indiana if the Corporation has the capacity to accept the student. If the number of students who request to transfer to the Corporation under this section causes the Corporation to exceed its maximum student capacity, the Board shall determine which students will be admitted as transfer students by a random drawing in a public meeting.~~

~~{YOU MUST SELECT THE FOLLOWING OPTION IF YOU DO NOT OPERATE MORE THAN ONE HIGH SCHOOL;}~~

~~{ } Nonpublic School Transfer Student~~

~~The Corporation shall accept a transferring student who resides in Indiana and who does not have legal settlement in the Corporation if:~~

- ~~A. the student attended an accredited nonpublic elementary school located in the attendance area of the Corporation for at least two (2) school years immediately preceding the school year in which the student transfers to a high school in the Corporation under this section;~~
- ~~B. the student is transferring because the accredited nonpublic school from which the student is transferring does not offer grades 9 through 12;~~
- ~~C. the majority of the students in the same grade as the transferring student at the accredited nonpublic school have legal settlement in the Corporation and will attend a school under the authority of the Corporation; and~~
- ~~D. the Corporation has the capacity to accept students.~~

~~If the number of students who request to transfer to the Corporation under this section causes the Corporation to exceed its maximum student capacity, the Board shall determine which students will be admitted as transfer students by a random drawing in a public meeting.~~

~~{END OF OPTION}~~

~~{END OF OPTION #1}~~

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~~[ ]~~ **Option #2**

~~In addition to students with legal settlement in the Corporation, students without legal settlement in the Corporation (hereafter referred to as "transfer students") will be enrolled in compliance with I.C. 20-26-11-32 and the following procedure:~~

- ~~A. By \_\_\_\_\_ [insert date], the Board will establish the number of transfer students that can be accepted in each building and grade level.~~
- ~~B. The Board will establish a date by which requests to enroll a transfer student must be submitted to the Superintendent. This date shall be submitted to the Indiana Department of Education and published on the Corporation Internet website.~~
- ~~C. Requests to enroll a student without legal settlement in the Corporation shall not be denied if the student to be transferred:~~
  - ~~1. has been enrolled in the Corporation in the prior school year;~~
  - ~~2. is a member of a household in which any other member of the household is a student in the transferee school; or~~
  - ~~3. has a parent who is an employee of the Corporation.~~
- ~~D. If the number of requests to enroll in each building and grade level exceeds the number established by the Board reduced by the number of transfers that may not be denied as described in paragraph (C) above, the students to be enrolled in each building and grade level shall be determined by random selection in which each application submitted on or before the date established by the Board pursuant to paragraph (A) above has an equal chance of being selected.~~

~~Pursuant to State law, a student's application to transfer to the Corporation may be denied if the student has been suspended for ten (10) or more school days, or suspended or expelled for possession of a firearm, deadly weapon, or a destructive device, causing physical injury to a person, or a violation of the Corporation's drug or alcohol rules during the twelve (12) months preceding the student's request to transfer.~~

~~For purposes of computing the number of days of suspension of the student requesting enrollment, student discipline received from a teacher pursuant to I.C. 20-33-8-25(b)(7) and I.C. 20-26-11-32(j) shall be included in the calculation of the number of school days that a student has been suspended.~~

~~{ } — Transportation will not be provided by the School Corporation for transfer students accepted for enrollment, unless the transfer student has an Individualized Education Program (IEP) in which transportation is required to be provided as a related service.~~

~~No transfer student shall be accepted for enrollment for athletic reasons.~~

~~Transfer students~~

~~( ) — will be charged.~~

~~( ) — will not be charged unless otherwise required by law.~~

~~( ) — may be charged transfer tuition according to Board Policy 6150.~~

~~{NOTE: Under the law, a corporation may charge tuition to some students, but not others. Choosing this option is NOT RECOMMENDED. All students should be treated the same to avoid claims of discrimination.}~~

~~{END OF OPTION #2}~~

~~{END OF OPTIONS}~~

~~[NOTE: The primary purpose of HEA 1381 (2013) is to end perceived "cherry picking". This objective is expressed most succinctly by the addition of I.C. 20-26-11-32(g) which states: "(g) Except as provided in subsections (i), (j), and (k), the governing body of a school corporation may not deny a request for a student to transfer into the school corporation based upon the student's academic record, scores on ISTEP tests, disciplinary record, or disability, or upon any other factors not related to the school corporation's capacity."]~~

~~I.C. 20-18-2-11 (legal settlement defined)~~

~~I.C. 20-33-2-12 (transfer to another accredited or non-accredited school)~~

~~I.C. 20-33-8-17 (expulsion for lack of legal settlement)~~

~~I.C. 20-26-11-1 (residence defined)~~

~~I.C. 20-26-11-2.5 (divorced parent election)~~

~~I.C. 20-26-11-6(e) (option to not charge transfer tuition)~~

~~I.C. 20-26-11-6.5 (children of school employees)~~

~~I.C. 20-26-11-6.7 (nonpublic school students)~~

~~I.C. 20-26-11-32 (lottery selection of student transfer requests, HEA 1381—2013)~~

~~Plyer v. Doe, 457 U.S. 202 (1982) (State Statute denying free public education to illegal immigrants violated the Equal Protection Clause of the Fourteenth Amendment)~~

~~Divorced Parents Agreement:~~

~~<http://www.doe.in.gov/sites/default/files/legal/formiii.pdf>~~

~~Third Party Agreement:~~

~~<http://www.doe.in.gov/sites/default/files/legal/custodialstatementinstructions.pdf>~~

~~I.C. 20-18-2-11 (legal settlement defined)~~

~~I.C. 20-33-2-12 (transfer to another accredited or non-accredited school)~~

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