



# Policy Advisor

*By Julie M. Slavens, Esq., Senior Counsel/Director of Policy Services*

## **TOPICS: I. 2021 INDIANA GENERAL ASSEMBLY ACTION – PART II II. STUDENT RESIDENCY VERIFICATION**

This article will discuss actions taken by the 2021 Indiana General Assembly relating to policy considerations for Indiana school boards that were not covered in the Summer 2021 issue of *The Journal*. Legislation will be referred to as the enrolled act designation and public law number. Enrolled acts may be found on the Indiana General Assembly website at <http://iga.in.gov/> by clicking on the Bills tab in the upper right-hand corner of the page and putting the bill number in the drop-down box. The effective date for all Acts is July 1, 2021, unless otherwise noted.

### **I. 2021 INDIANA GENERAL ASSEMBLY ACTION – PART II**

#### **A. HEA 1271, P.L. 38-2021 – Rainy Day Fund Transfers**

Section 79 of this Act is effective retroactively to January 1, 2021, and amended IC 36-1-8-5.1, which sets out the establishment, purposes, and transfer procedures for a school corporation Rainy Day Fund. This Act amended the statute with respect to the percentage of unobligated cash balances from a fiscal year that may be transferred into the school corporation Rainy Day Fund. As a result, a school corporation may transfer up to 15% of the school corporation's total annual budget for the fiscal year in which the transfer is made for the following years: 2021, 2022, 2023, and 2024. After December 31, 2024, the percentage of the annual budget that may be transferred reverts to 10%. The Rainy Day Fund monies



can be used for purposes as set out in the school corporation Rainy Day Fund resolution and/or policy.

State law does not require a school corporation to have a Rainy Day Fund policy, but ISBA recommends a school board have one if it has established a Rainy Day Fund. The policy should set out the general and/or specific uses for the monies in the Rainy Day Fund and the amounts to be transferred to the Rainy Day Fund as allowed by the above referenced Rainy Day Fund statute. Thus, if a school board does have a Rainy Day Fund policy addressing the transfer limits, the policy should be amended to reflect the ability to transfer up to 15% of unobligated monies to the Fund during each of the next four years.

## **B. HEA 1549, P.L. 216-2021 – Various Curriculum-Related Items**

This Act contains many sections, and a few of the sections relate to curriculum, transportation, and related topics which may affect current policies of local school boards.

**Section 6:** The definition of “appropriate vehicle” was moved to the general definitions article in Title 20, i.e., IC 20-18-2. It is the same meaning contained previously in the transportation of homeless students’ article of Title 20, i.e., IC 20-27-12-0.1. By placing it in the general definition article, this definition of “appropriate vehicle” will apply throughout Title 20 and not just to the transportation of homeless students. Section 33 of this Act amends state law to allow for the use of an appropriate vehicle to transport a special education student as provided in the student’s Individualized Education Program and requires the State Board of Education to adopt rules governing the transportation of students by appropriate vehicles. See IC 20-35-8-2(e). As a reminder, this definition of appropriate vehicle is a vehicle that is owned or contracted for by a school corporation and has a seating capacity of no more than eight persons (including the driver). Appropriate vehicle includes a car, truck, sports utility vehicle, or minivan.

**Section 14:** This adds a new section to the General School Powers Act, and it is codified at IC 20-26-5-40.2. The new law requires a school board, when it passes a resolution to close a high school within the school corporation, to develop a plan for the preservation or transfer of memorabilia, trophies, or other property that has historical significance, as determined by the school board. The plan developed by the school board must be available for public inspection and posted on the school corporation’s website. A school board may choose to do this as a policy instead of a resolution and make it applicable to any school closing within the school corporation so there is a uniform method of preserving the history of the schools and the school corporation. The policy relating to the preservation plan would be referred to in the school board’s resolution to close a school building.

**Section 16:** This section amends the statute on the curriculum materials adoption process by local school

corporations to require the school board to approve the adoption procedures established by the superintendent. This section also requires the school board to review the curriculum materials recommended by the superintendent before it adopts the recommended curriculum materials. These changes appear to be minor, but they do require additional school board oversight of the textbook adoption process. Some school boards have policies on the adoption of textbooks and/or curriculum materials, and those policies should be reviewed and amended to reflect the changes in the law.

**Sections 18 and 19:** These sections amend the transportation contract statute and the fleet contract statute, respectively, with the same provision. The provision allows a school corporation to enter into a transportation or a fleet contract with a transportation network company (TNC) to transport students to school on the condition the school corporation conducts an expanded criminal history check and an expanded child protection index check on all drivers employed by the TNC who will be driving students to school. These are the same checks required for school employees who work with students on a regular and on-going basis. A TNC is defined as an “entity that does business in Indiana and uses a digital network to connect TNC riders to TNC drivers to request prearranged rides.” See IC 8-2.1-17-17. This would include Uber, Lyft, or other similar companies operating in Indiana. School boards entering such contracts may want to consider addressing this requirement in their Expanded Criminal History Checks





policy or in their transportation policies. School boards must follow the same procurement process for contracts with TNC entities as they do for independent bus drivers and non-TNC companies.

**Section 27:** This added a new statute to the Calendar chapter on Curriculum and is codified as IC 20-30-2-2.5. It requires virtual instruction or online learning provided to students to be of the same rigor and quality of instruction as the students would receive if the students were attending school in-person. In addition, the new law requires all curriculum and all other educational materials or resources used in the virtual instruction or remote learning to meet and align with the Indiana academic standards. The State Board of Education may adopt rules to implement this law.

## II. STUDENT RESIDENCY VERIFICATION

In August 2021, the Indiana Department of Education (IDOE) sent out a memorandum to all superintendents and school principals addressing the verification of student residency in Indiana for Membership purposes. The memo explains a school must verify the Indiana residency of every student reported to the IDOE for Membership (think ADM) at the beginning of school or when a student enrolls during the school year. The memorandum explains this must be done even when a student has not moved or changed residency and enrolls in the same school year after year. In the situation where the student is enrolling in the same school as enrolled in the previous school year but has moved, the new residence must be verified, and the documentation

of the previous address must be maintained. The memorandum also states school boards are mandated to adopt a policy on the types of documentation required to verify the student lives in Indiana, even though there is no state law or regulation mandating a school board adopt such a policy.

A school board may adopt such a policy if it chooses to do so. The verification process is carried out at the school building level by school administration whenever a student enrolls in the local school, and thus, an administrative regulation or procedure is more appropriate than a board policy. To satisfy the IDOE requirement the school board “adopt” a policy, the school board should review the regulation on student residency verification and formally adopt it in an open meeting, and such adoption should be reflected in its meeting minutes.

The regulations may be detailed to the extent of including the IDOE expectations set out in the memo or could be as simple as stating the specific documents needed to verify the Indiana residence of the student. IDOE in the memorandum suggests no more than three such documents should be required to verify Indiana residency of the student. IDOE also provides suggestions for documentation that could or should be used to verify Indiana residency. Some of the documents suggested are a current utility bill, telephone bill, medical bill, or bank statement that is dated within 60 days of the date of enrollment of the student. A school administrator would have the option to require the documentation be dated closer in time, perhaps 30 days before enrollment of the student. The regulations may also include proof of Indiana residency requirements for students who do not have a permanent

home in the school corporation, such as homeless students, foster care students, or students living with a custodian or legal guardian as set out in the IDOE memorandum. A regulation addressing the requirements for verification of students’ Indiana residence would provide guidance for school personnel who are enrolling students in the school and/or reporting the students to the IDOE for Membership purposes. ➤

*If you have any questions or would like a copy of any document referred to in this article, please contact Julie M. Slavens, Senior Counsel/Director of Policy Services, by phone: 317/639-4362 or by e-mail: [jslavens@isba-ind.org](mailto:jslavens@isba-ind.org).*

