

Restrictions on the Superintendent's Contract

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While school boards have the authority and responsibility to employ a superintendent, there are several laws that impact the contractual relationship between the board and the superintendent. For instance, current Indiana law limits the term of a superintendent's contract to no more than three years and limits the number of years that the contract may be extended. See [IC 20-28-8-6](#). Additionally, Indiana law requires a school board to publicize the proposed terms and conditions of its contract with the superintendent and allow the public the opportunity to comment on the proposed contract before the board may enter into the contract. See [IC 20-26-5-4.3](#) for the specific provisions of this statutory requirement.

Recent Legislation

Indiana law also allows the school board and the superintendent to alter, modify, or rescind an existing contract in favor of a new contract "at any time" by the mutual consent of both parties. See [IC 20-28-8-2](#).

However, a fairly new law, one passed in 2020, now restricts that authority for school boards whose members are elected. Specifically, IC 20-28-8-6 states that a school board may not enter into a contract with the superintendent "after the date of the election for one (1) or more members of the governing body until January 1 of the year immediately following the election." With school board elections occurring this November, and this being the first year that this law impacts school boards, it is important for school boards to understand this limitation.

Thus, for any school board that has one or more new persons joining the board on January 1, 2023, as a result of the November 2022 elections, that board may not enter into a new contract or modify an existing contract with the superintendent until after the newly elected members begin their term of office. If there is no change in the membership of the school board as a result of the 2022 general election, the school board is free to exercise its authority to enter into a contract with the superintendent or to modify an existing contract.

Implications

When this language was being considered by the General Assembly, it was likely their intent to prohibit outgoing school board members from increasing the superintendent's salary or adding another year of employment to the current superintendent's contract before the newly elected individuals take office.

However, interpreted literally, this statute may be problematic for a school board that is in the midst of a superintendent search and preparing to enter into a contract with a superintendent for the first time. Presumably, the legislature did not intend to interfere with the board's authority to hire a superintendent at any time during the school year in cases where a vacancy in the position exists. For any board that is in this scenario, the board should consult with local counsel to determine the impact of this statute on the hiring process. But, for other boards that may have a change in their membership as a result of school board elections, this law clearly applies and prohibits the current board from modifying the current superintendent's contract until after the start of the new calendar year.