



# Indiana Department of Education

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Dr. Katie Jenner, Secretary of Education

To: Principals, Deans, Attendance Officers

From: Catherine Danyluk, State Attendance Officer

Date: July 29, 2022

Subject: Enrollment Restrictions and Denial of Enrollment

Children **cannot** be denied enrollment for the following reasons:

- **Lack of a birth certificate.** A student must have a birth certificate or other reliable proof of the student's date of birth per IC 20-33-2-10(a)(2). If a birth certificate or other reliable proof of the date of birth is not provided within 30 days of enrollment the school shall notify the Indiana State Police Clearinghouse for Information on Missing Children & Missing Endangered Adults.
- **Showing up late for the beginning of the semester.** The compulsory school attendance law (IC 20-33-2-29) requires attendance and requires the school administrator to ensure that children of compulsory school attendance age are enrolled.
- **Not having rental receipts, a mortgage document, driver's license, social security card, lease agreement, or other forms of official identification.** State law does not require any document with an address as a prerequisite to enrollment. Asking for any document to assist in determining legal settlement or right to attend school based on the location of the residence is appropriate. However, if the parent does not have documents or proof of residence a child cannot be denied attendance for that reason alone. Attendance officers, or school officials, have the authority to investigate the residence of parents to ensure compliance with state law. Children may not be removed or expelled from school without due process of law. Please see IC 20-33-8-17 and IC 20-33-8-19 for the law on expulsions.
- **Not having an individualized education program (IEP).** The student must be enrolled immediately and provided special education services. Schools must convene a case conference within 10 days to review and revise the student's IEP. Students on an IEP must be enrolled immediately and provided services comparable to those described in the student's IEP from the previous school until the school either adopts the student's IEP or develops and implements a new IEP.
- **Not being a citizen of the country or the state.** A child must be in school in Indiana if the child intends to remain in the state for at least 30 days per IC 20-33-2-3(2)(B) and 511 IAC 1-7-1. Note: Enrollment must be immediate when intent to remain for 30 days is determined, without regard to legal domicile per IC 20-33-2-3.



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- **Being an undocumented alien.** Children of undocumented aliens must be allowed to attend public school. (*Plyler v. Doe*, 457 US 202 (1982)).
- **Not having a stable residence.** Homeless children must be accommodated and may not be removed from school for legal settlement reasons alone. Contact [MckinneyVentoPoc@doe.in.gov](mailto:MckinneyVentoPoc@doe.in.gov) with any questions related to homeless children.
- **Moving.** If a parent moves out of the district during the school year, the child may remain in the school at the parent's discretion until at least the end of the semester per IC 20-26-11-2(8).
- **Lack of immunizations.** Children must be enrolled in school whether or not they have required immunizations. If they do not have the required immunizations and the school refuses to grant a statutorily allowed 20-day waiver, the child may not be permitted to attend school beyond the first day of school per IC 20-34-4-5(c)(1) & (2).
- **Not speaking English.** Non-English speaking children must be allowed to attend public school. (*Lau v. Nichols*, 414 US 563 (1974)).
- **Living with a kinship caregiver.** If a student resides with a relative or kinship caregiver without state agency placement, the student has the right to attend school in the school district in which they reside. A [third-party custodial agreement](#) can be completed by the caregiver and may be accepted if parental signature is unable to be secured due to unavoidable circumstances.
- **Fifth year seniors.** All Indiana students have the right to obtain their high school diploma. Students remain in the cohort of the school where the student was expected to have graduated in four years for accountability purposes. For example, if a student was in School A's cohort at the time of the student's expected graduation date and did not graduate but subsequently enrolled at School B to graduate in a fifth year, the student would remain in School A's cohort.
- **Students over 18 years of age.** In Indiana, individuals have a constitutional right to attend school until they have received a high school diploma. Receipt of a High School Equivalency (HSE) is not equivalent to a high school General or Core 40 diploma, with or without honors, and does not extinguish the right to earn a high school diploma. Schools have the right to determine placement, and may determine that an older student should not attend in a traditional high school setting during the day, but rather earn credits through online credit recovery, evening classes, etc. The student may be required to attend adult education classes rather than high school, but the student cannot be denied the right to attend school and earn a diploma. Per the Compulsory School Attendance law (Constitution of the State of Indiana, Article 8, Section 1), a student is required to attend until the age of 18. The state of Indiana does not specify an age by which students can no longer attend.



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The final arbiter of the right to attend school and the determination of legal settlement is the Indiana State Board of Education (SBOE) as indicated in IC 20-26-11-15 and IC 20-33-2-45. The parent of any child denied the right to attend school or expelled due to lack of legal settlement should be advised of the right to appeal to SBOE. Students who are 18 or older should also be advised of their right to request a hearing, as those rights now belong to the students, instead of the parents.

Please contact Catherine Danyluk, state attendance officer at [cdanyluk@doe.in.gov](mailto:cdanyluk@doe.in.gov) or 317-232-9150 with any questions or for additional clarification.