



MEMORANDUM

TO: Principals, Deans, Attendance Officers

FROM: Catherine Danyluk
Chief State Attendance Officer

RE: Enrollment Restrictions and Denial of Enrollment

DATE: September 18, 2015

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. IC 20-33-2-10(a)(2). Failure to provide a birth certificate or other reliable proof of the date of birth within 30 days of enrollment may result in a report to the Indiana Clearinghouse for Missing and Exploited Children at 800-831-8953. IC 20-33-2-10(c).
- Showing up late for the beginning of the semester. The compulsory school attendance law requires attendance and requires the school administrator to ensure that children of compulsory school attendance age are enrolled. IC 20-33-2-29.
- 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 authority to investigate the residence of parents to ensure compliance with state law. Children may not be removed from school without due process of law. IC 20-33-8-17 and IC 20-33-8-19.
- Not having an 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. IC 20-33-2-3(2)(B); 511 IAC 1-7-1. Note: Enrollment must be immediate when intent to remain for 30 days is determined, without regard to legal domicile. 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 Julie Smart, McKinney-Vento Education Program Coordinator at 317/460-1340 or jsmart@doe.in.gov.
- 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. IC 20-26-11-2(8).
- Lack of immunization. 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. IC 20-34-4-5(c)(1) & (2).
- Not speaking English. (*Lau v. Nichols*, 414 US 563 (1974)).
- Fifth Year Seniors (students who dropped out and return). The student has the right to obtain their high school diploma. Because of how the cohort is established, these students will remain in the cohort of the school where the student was expected to have graduated in four years. 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 for accountability purposes. Please note that a five year graduation rate will be utilized in A-F accountability beginning with the 15/16 school year in addition to the traditional four year graduation rate.
- Students over 18. In Indiana, individuals have a constitutional right to attend school until they have received a high school diploma. Receipt of a GED is not equivalent to a high school diploma and does not extinguish the right to earn a high school diploma. Schools do have the right to determine the placement, so the school could determine that an older student not attend the traditional high school day but rather earn credits through online credit recovery, evening classes, etc. The student could be required to attend adult education classes rather than the high school, but cannot be denied the right to attend school and earn a diploma. Per the Compulsory School Attendance law, a student is required to attend until the age of 18. This code does not specify an age of which they can no longer attend.

The final arbiter of the right to attend school and the determination of legal settlement is the Indiana State Board of Education. IC 20-26-11-15; 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 the Board. 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.

Please contact Catherine Danyluk, Chief State Attendance Officer at 317/232-9150 or cdanyluk@doe.in.gov if you have questions.