

**CUSTODIAL STATEMENT AND AGREEMENT INSTRUCTIONS
FOR SCHOOL CORPORATIONS, PARENTS, GUARDIANS, AND CUSTODIANS**

“Legal settlement” of a student refers to the student’s status with respect to the public school corporation that has the responsibility to permit the student to attend its local public schools without the payment of tuition. I.C. 20-18-2-11. In most cases, legal settlement is determined by where the student’s parent lives. I.C. 20-26-11-2. Due to a variety of family circumstances, some students may not have legal settlement where the parent, or custodial parent, resides.

Indiana Code 20-26-11-3 requires the State Superintendent of Public Instruction to prepare the form of agreement to be used when the legal settlement of the student is other than where the parent or custodial parent resides. **Form I: Custodial Statement and Agreement: Divorce, Separation, or Abandonment**; **Form II: Custodial Statement and Agreement: Third Party Custody**; and **Form III: Election to Attend School Where the Parents Are Divorced or Separated** have been prepared pursuant to I.C. 20-26-11-3. In completing these forms, the parent(s), guardian(s), custodian(s) or student(s) should be certain to fill in all requested information and identify the reason the form is being utilized. Persons signing the form are affirming, under penalty of perjury, the accuracy of the information provided. Persons with whom the student resides must agree to accept the responsibilities and liabilities of the parent with respect to dealing with the school. Should it be determined that false information has been provided, or the student is residing with an individual other than the parent primarily for the purpose of attending a particular school, the parent(s), guardian(s), custodian(s), or student(s) may be responsible for the payment of tuition.

Form I: Custodial Statement and Agreement: Divorce, Separation, or Abandonment
I.C. 20-26-11-2(2)

Form I is utilized when the student is residing with a parent. Where the student’s mother and father are divorced or separated, the legal settlement of the student is the school corporation whose attendance area contains the residence of the parent with whom the student is living, in the following situations:

1. Where no court order has been made establishing the custody of the student.
2. Where both parents have agreed on the parent with whom the student will live, including the following situations:
 - a. There is no court order establishing custody.
 - b. There is a court order establishing custody, but the parents have agreed the student will live with the non-custodial parent.
 - c. The court order grants the parents joint custody. With joint physical custody, the student could establish legal settlement in either of the school districts in which his parents reside. In this situation, the parents can agree upon the parent with whom the student will reside for school attendance purposes. It is not required that the student reside with this parent 100% of the time.
3. Where the parent granted custody of the student has abandoned the student.

Form I is signed by both parents. If the student has been abandoned by the custodial parent, only one parent need sign the form.

Form II: Custodial Statement and Agreement: Third-Party Custody

I.C. 20-26-11-2(2), (3), or (5)

Form II is utilized when the student is residing with a person other than a parent. In the following circumstances, the legal settlement of the student is the attendance area of the person with whom the student is residing. **Form II** should be used in the following situations:

1. The student has been abandoned by the parent and left in the custody of another person.
2. The student is being supported by, cared for by, and living with some other person. (If the parents are able to support the student but placed the student in the home of another person, or permitted the student to live with another person, primarily for the purpose of attending school in that attendance area, the legal settlement of the student remains with the parent.)
3. The student's parents are living outside the United States due to educational pursuits or a job assignment; they maintain no permanent home in any school corporation in the United States; and they have placed the student in the home of another person.

Under typical situations, both the parent and the custodian or guardian with whom the student is residing are to sign **Form II**, verifying the accuracy of the information provided. However, there will be situations where the parent has effectively abandoned the child or cannot be located. Under such circumstances, signature of the parent is not necessary.

Form III: Election to Attend School Where the Parents Are Divorced or Separated

I.C. 20-26-11-2.5

Form III is utilized where the student's parents are divorced or separated but live in different public school corporations. The parent with physical custody (or the student, if the student is 18 years of age and competent) can make an election on an annual basis regarding which school corporation the student will attend: the one in which the parent with physical custody lives or the one in which the other parent lives. The election must be made not later than fourteen (14) days before the first student day of attendance. The election is good for one school year and must be renewed for any subsequent school years. The student is deemed to have legal settlement where the election is made. Transfer tuition cannot be charged. If no election is made, the student is deemed to have legal settlement in the school corporation where the parent with physical custody resides.

Disputes Concerning Legal Settlement

A school corporation must enroll a student who is presented for enrollment when the parent, guardian, or custodian claims the student has legal settlement within the school corporation. If the situation warrants, after enrolling the student, the school can initiate expulsion proceedings for lack of legal settlement, as permitted by I.C. 20-33-8-17. The student cannot be suspended from school for legal settlement purposes pending the outcome of the expulsion proceeding. The determination of the local expulsion examiner can be appealed to the Indiana State Board of Education. I.C. 20-26-11-15.

Additionally, or as an alternative to expulsion due to lack of legal settlement, either the school or the parent, guardian, or custodian of the student may request a hearing before the Indiana State Board of Education for a determination of the student's legal settlement or right to attend school.

If it is ultimately determined the student did not have legal settlement within the school corporation, the school may be entitled to recover tuition costs.

Appropriate utilization of **Form I**, **Form II**, or **Form III** may help to resolve such disputes. Although statute dictates the creation of these forms, neither statute nor the forms will be able to address every custodial situation that may arise. Any questions concerning **Form I**, **Form II**, **Form III** or any aspect of legal settlement should be directed to the Legal Section of the Indiana State Board of Education, (317) 232-2000.