

2022 ISTA Legislative Agenda

RESTORE EDUCATOR VOICE IN WORKING CONDITIONS

When teachers have a voice in school conditions, students' learning conditions improve. It's time to restore the teacher voice in improving school conditions. Educators should be permitted to work together through their union to bargain contracts that let them do their jobs safely and well. Specific recommendations include:

- Allow local school boards to expand bargaining to issues other than salary and wages — making it a local issue.
- Add health and safety, teacher prep time and class size as bargainable items — those items on which Hoosier voters surveyed felt most strongly should be included in the scope of bargaining.
- Require schools to guarantee teachers prep time.
- Create an interim study committee to:
 - Quantify across statewide grade levels and subjects:
 - Class sizes
 - Speech language pathology (SLP) caseloads
 - Counselor-to-student ratios
 - School social worker caseloads
 - Unfilled vacancies for SLP, counselor and social worker positions
 - Make recommendations to the General Assembly

BACKGROUND

Prior to 2011, teachers bargained with their employers on several important items, including working conditions that directly affect student learning, including class size, health and safety matters and working hours – which included time for lesson plan preparation and grading during the workday.

In 2011, lawmakers restricted what teachers could bargain to salary, wages and wage-related benefits (health insurance, vision, PTO, retirement), making invalid any contract that included other provisions.

Since 2011, other wage-related items (mostly stipends) have been labeled in law as non-bargainable (IC 20-28-7.5-7; 20-28-9-1.5; IC 20-32-8.7-9; IC 20-43-10-3.5). Coupled with these bargaining restrictions, funding to public schools failed to keep up with surrounding states causing Indiana's teacher salary rankings to drop dramatically.

The funding provided in the 2021 legislative session was a significant step in turning the tide on salary levels for Hoosier teachers. Time and resources will tell how Indiana continues to address teacher salaries. However, there remains an additional impediment to ensuring Indiana's public school teaching force thrives. Specifically, improvements in working conditions must be addressed.



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Working conditions that most directly impact student learning include:

- Class size
- Air and water quality
- Time to prepare (hours and staffing levels)
- Student discipline policies
- Curricular issues

A scientific poll conducted on behalf of ISTA this summer indicates voters overwhelmingly (80%) believe educators should not only be able to bargain salary and wage issues but should also be permitted to negotiate health and safety issues, maximum class size and time to prepare and grade student work.

Additionally, 83% of voters believe that Indiana is facing a shortage of great teachers and that it will be easier to attract good people to the job if they can negotiate better working conditions with their co-workers.

RESOLVE SCHOOL FUNDING ISSUES

Correct virtual student funding due to COVID-19

ISTA supports a funding fix for quarantined virtual students described by legislative leaders and will continue to monitor the impact that COVID-19, and any future variants, have on student attendance and school funding. No public school in Indiana should lose per-student state funding due to COVID-19 when the school is providing instruction.

BACKGROUND

An emergence of a new variant of the coronavirus this summer caused many Indiana schools to again quarantine students at the beginning of the school year, with some requiring multiple quarantine periods. Due to the number of quarantines of students and staff, some school districts were forced to provide virtual instruction for entire classes, and in many cases, schoolwide.

Due to language in the biennial budget, some students who participated in virtual learning because of quarantines would be counted at 85% funding. This constituted at least 50% of their instruction during the window for determining funding levels for the first semester (effective the start of school year until average daily membership (ADM) count day, September 17, 2021).

When lawmakers addressed this issue in the prior school year, they made a fix to distinguish virtual education in its most traditional sense from remote learning due to the ravages of COVID-19. The same type of legislative fix is needed this school year due to these rolling quarantines.



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On Sept. 10 President Pro Tempore Rodney Bray (R - Martinsville) and Speaker Todd Huston (R - Fishers) issued a joint letter indicating their intent to pursue legislation that would allow the Indiana Department of Education (IDOE) to determine a student's virtual or in-person status based on how the student attended classes over the course of the entire first semester, not just the period leading up to the student count date.

Determine the base year for purposes of the statutory funding floor

ISTA supports an amendment directing the IDOE to use FY 2020 – 21 as the base year for the basis of determining a funding floor.

BACKGROUND

In HEA 1001, lawmakers defined funding floor to mean, “the amount a school corporation expended for teacher salaries during a particular state fiscal year.” The definition also states that if a school corporation receives more money in a particular state fiscal year than what was received in a prior school year, the school district, “may not expend an amount for full-time teacher salaries during the particular state fiscal year that is less than the funding floor for the preceding state fiscal year.”

The law further exempts teacher appreciation grants and certain other stipends from the calculation, while at the same time offering an avenue for school districts to apply for a waiver. However, the funding floor is generally an effort by lawmakers to guide districts toward a consistent maintenance of effort relative to teacher salary levels.

The IDOE misinterpreted this section in an [memo published June 23](#) by designating the base year for calculating the funding floor as being this fiscal year instead of the 2020 – 21 school year.

The unintended consequence is that district employers may be hesitant about raising salaries this year, which would become the base year going forward, for fear that it may make reaching the next funding floor threshold more difficult. In effect, by the IDOE's interpretation, districts can manipulate lawmakers' intent to raise teacher salaries as much as possible and as soon as possible.

The IDOE interpretation belies simple statutory interpretation. The pertinent section of the law took effect July 1, and the law specifically references the “preceding state fiscal year” as the year in which comparisons must be made, and FY 2020 – 21 is the preceding state fiscal year from the date the law went into effect. The law never stated, nor implied, that the base year is the current (2021 – 22) fiscal year.

Clarify the expenditure goal of tuition support for teacher salaries

If the General Assembly's goal is to determine that at least 45% of state tuition support is used for teacher salaries, legislators need to clarify the law to ensure that for the purpose of this 45% expenditure goal, only full-time teachers who are paid from state tuition support are included in the calculation.



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BACKGROUND

HEA 1001 includes a directive to school districts to spend at least 45% of their state tuition support toward teacher salaries beginning this school year. Again, this provision impacts negotiations but provides a defensible goal for both parties, assuming that there is consistency in what is designated both as included expenditures and relevant revenue.

It is also important to note that the law gives districts flexibility by providing a waiver should a school district be unable to comply for a particular school year, but the law characterized the 45% goal as a requirement demonstrating the seriousness of the priority.

That said, the implementation guidance around the 45% goal makes little mathematical sense. The IDOE is counting expenditures made for staff who are not paid from each district's education fund to also be included in the calculation (including teachers funded from federal Elementary and Secondary School Emergency Relief (ESSER) grants and Title 1). This inflates the numerator in the underlying calculation. At the same time, the IDOE does not include the funds attributable to these employees on the revenue side of the equation (the denominator).

From a simple mathematical standpoint, the numerator is inflated while the denominator is capped at revenue that now has no bearing to the numerator. Therefore, the 45% expenditure is no longer a true 45% of state tuition support as the law requires.

Open more funding for teacher salaries by capping use of deficit finance

Amend the deficit finance definition to ensure that in negotiations (including through fact-finding), cash and rainy-day fund balances, the sum of which exceed 20% of the district's annual certified education budget, may be the subject of continued negotiation.

BACKGROUND

Some school districts continue to leave state tuition support funding meant for teaching and learning unspent in negotiations amassing indefensibly large cash and rainy-day fund balances. By the [latest rainy-day fund and cash balance data](#), more than half of Indiana's public-school districts (175) have balances in excess of 25% of their respective education fund budgets.

Maintaining these large surpluses year after year hurts kids and staff. Further, once a school district makes the decision to leave state tuition support funding unspent (or otherwise refuses to agree to spend those funds) in the year the money is provided, in subsequent years, if the parties go to fact-finding, only dollars from the current tuition support revenue can be considered — and not any balances amassed in prior years.

IC 20-29-6-15.1 (b): Factfinding must culminate in the factfinder imposing contract terms on the parties. The factfinder must select one (1) party's last best offer as the contract terms. **The factfinder's order must be restricted to only those items permitted to be bargained and included in the collective bargaining agreement under section 4 of this chapter and**



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must not put the employer in a position of deficit financing (as defined in IC 20-29-2-6). The factfinder’s order may not impose terms beyond those proposed by the parties in their last, best offers.” [Emphasis added].

IC 20-29-2-6 (in pertinent part): Sec. 6. “Deficit financing” for a budget year, “means...actual expenditure exceeding the employer’s **current year** actual education fund revenue and, for a school employer for which the voters have passed an operating referendum tax levy under IC 20-46-1 or a school safety referendum tax levy under IC 20-46-9, the amount of revenue certified by the department of local government finance...” [Emphasis added].

The deficit finance in law reads in part,

“‘Deficit financing’ for a budget year means actual expenditures exceeding the employer’s *current* year actual education fund revenue...”

The result is that school employers can use this statutory scheme to contravene lawmakers’ intentions that dollars they provide follow children.

While ISTA recognizes that every good business model calls for a degree of prudent future planning and reserves, the degree to which some districts have refused to leverage education fund revenue on the service delivery of education in the year it is provided is indefensible.

PROVIDE A LIVING WAGE AND RESPECT FOR EDUCATION SUPPORT PROFESSIONALS

Give wage increases statewide to education support professionals (ESP) so they earn a living wage. Also, to ensure that ESPs are respected, provide them collective bargaining rights. Create an interim study committee to engage in a comprehensive study or survey of ESP issues and to make recommendations to the General Assembly on:

- Salary levels by job category, years of service and by district
- Wage benefits by district, including:
 - Health insurance costs
 - Retirement benefits
- Staffing levels by job category and district
- School-based vacancies by job category and district
- Hours in a workday and work week by district
- Scope of responsibilities by job category and by district
- Efforts to achieve ESP integration in school decision making by district



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BACKGROUND

ESPs include, bus drivers, food service employees, custodians, technicians and skilled trades persons, clerical and administrative staff, security and instructional aides. ESPs strengthen our schools and communities and play both unique and important roles in the lives of Hoosier students.

ESPs are critical members of the K – 12 education workforce. Yet, Indiana has very little centralized data on the work they do and no centralized salary level data.

What we do know is that these employees are not afforded the opportunity to bargain collectively and often they earn less per hour than many of the high school students they serve. The result? There is an alarming, but not surprising, increase in unfilled ESP positions around the state.

SUPPORT SOCIAL AND RACIAL JUSTICE

- ISTA continues to support public policies that address inequities within our pre-K and K – 12 education system. This includes, but is not limited to, funding inequities, school policies, employment, curriculum and professional practices.
- We will continue to advocate for teaching the truth. Our kids deserve an honest and accurate education that enables them to learn from the mistakes of our past to help create a better future for us all.
- ISTA supports greater investment in the William Crawford Minority Teacher Scholarship program and the Earline Rogers Student Teacher Stipend Program.
- ISTA supports the creation of a study committee to determine whether there exists impediments to underrepresented groups seeking to become teachers or other school-based professionals.

BACKGROUND

Recognizing that good public policy has a direct impact on education, the following must be assured.

- Democratic ideals should be practiced as part of the total educational process and the following concepts should be an integral part of the curriculum within public school and other educational institutions:
 - The dignity and worth of the individual
 - Due process of law
 - Rules of the majority tempered by respect for rights for people of color
 - Individual responsibility
 - Equal justice under the law
 - Civil liberties as guarantors of individual rights
 - One-person/one-vote principle
 - Active citizen participation in all aspects of public affairs
 - Freedom of religion, speech, press, petition and assembly



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- Educators, lawyers, court personnel and community stakeholders should work together to develop appropriate materials and activities, including information about the justice system and constitutional issues, to teach students to be responsible citizens.

Indiana has four distinct higher education scholarship programs that attempt to address teacher shortages and minority teacher recruitment and retention:

- William Crawford Minority Teacher Scholarship Program
- Next Generation Hoosier Educator Scholarships
- Earline Rogers Student Teacher Stipend Program
- Student Teaching in High Needs Areas Stipends

All of the programs are operating at their fiscal limits. In fact, because the Next Generation program had extra funds due to its incremental initial roll out, the Commission for Higher Education was able to transfer some of those dollars to the William Crawford Minority Teacher Scholarship to make additional awards.

Program	FY 2019 Appropriation	Per Student Amounts/ Maximums	Most Recent Usage (FY 2019)	Award Amounts	SPECIAL NOTES
William Crawford Minority Teacher Scholarship	\$400,000	\$4,000	174	\$2,200 (mean)	Service requirement of three years. There is no recoupment provision included in this scholarship for failure to serve.
Next Generation Educator Scholarships	\$3,000,000 Special Note: Appropriation is doubled to \$6 million for FYs 2022 & 2023.	\$7,500	371	\$7,309 (mean)	Service requirement of 5 years. The initial round of recipients recently graduated — 90% success rate. Must complete the service requirement or the grant converts to a loan (recoupment).
Earline Rogers Stipends	\$50,000	\$4,000	51	\$980 (average)	Must agree to apply for a teaching position in Indiana and, if hired, to teacher for at least 3 years.
High Need Area Stipends	\$450,000	\$4,000	169	\$2,663 (average)	Must agree to apply for a teaching position in Indiana and, if hired, to teacher for at least 3 years.
<i>Source: Indiana Commission for Higher Education; State Financial Aid Summary (Summer 2020)</i>					



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Strengthen Social Services for Kids

- ISTA supports an increase in student service staffing (school counselors, social workers, psychologists, nurses) by providing more resources for increased hirings of certified professionals. The state should prioritize leveraging federal ESSER dollars for this purpose. Establish uniformity in including these professionals in the local bargaining unit.
- ISTA supports the policy recommendations included in the joint declaration from the American Academy of Pediatrics (AAP), American Academy of Child and Adolescent Psychiatry (AACAP), and Children's Hospital Association (CHA).

BACKGROUND

Indiana [ranks 35th](#) in the number of children (nearly 20%) who have faced Adverse Childhood Experiences (ACEs).

On Oct. 19, the AAP, AACAP and CHA jointly [declared a national emergency](#) in children's mental health. Specifically, the groups are calling for:

- Increased funding to ensure all families can access mental health services
- Improved access to telemedicine
- Support for effective school-based, mental health care models
- Accelerated integration of mental health care in primary care pediatrics
- Stronger efforts to reduce the risk of suicide in children and adolescents
- Focus on overcoming the challenges to the acute care needs of children and adolescents
- Full funding of community-based systems of care that connect families to proven interventions
- Funding and other supports for trauma-informed care services
- Efforts to address workforce challenges and shortages so that children can access mental health services no matter where they live
- The promotion of policies that ensure compliance with mental health parity laws

The American School Counselor Association recommends a student-counselor ratio of 250:1. The National Association of School Psychologists recommend one school psychologist for every 500 to 700 students and the School Social Workers Association of America recommends a student to social worker ratio of 250:1.

Nationally, 10 million students are in schools with a police presence, but no social workers, and many states [report two to three times as many police officers in schools as social workers](#).

Indiana continues to rank in the [bottom 10 states](#) and U.S. territories in terms of number of students per counselor (486 students to each counselor based on 2019 – 20 data). The national average is 424:1.



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In 2018, the General Assembly enacted HEA 1230 calling on the IDOE to conduct a statewide [needs assessment survey](#) relative to student services and report the department's findings.

Based on 2018 data, the following depicts the numbers of student services personnel in Indiana:

Title	Count
School counselors	1,966
School social workers	246
School nurses	70
School psychologists	491
Registered nurses	965
Other certified employees in student services	524
Other health services	531
Others not captured by state data collections	251
School counselor, school social worker, school nurse and school psychologist data from 2018 IDOE certified staff collection reports. Registered nurse and other health services data from 2019 IDOE noncertified reporting collection. Others not captured by student data collections is from the 2018 IDOE student services needs assessment.	

Protect Educators & Kids: Create a Safe School Climate

To ensure that teachers have a meaningful voice in creating solutions, give teachers the ability to bargain class sizes, preparation periods and health and safety matters. Teachers have a singular position and perspective on how these situations can escalate.

Create a centralized database for on-the-job injuries caused by students on staff. Indiana cannot begin to address this issue without access to accurate, relevant data.

For pre-service teacher candidates, require that all teacher preparation institutions in Indiana include meaningful professional training in de-escalation techniques and other preventative strategies.

For existing staff, embed in all existing professional development trainings, components on de-escalation techniques and other preventative strategies.

Provide specific resources for additional school counselors, social workers and give them leverage in the development of school and district policy by uniformly including them in the bargaining unit. Prioritize federal ESSER funding in the immediate future.

Make failure to report these incidents a misdemeanor.



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BACKGROUND

Under IC 20-33-9-10, Indiana law requires a person who has reason to believe that a school employee has been threatened, intimidated, a victim of battery or harassed must report that information to law enforcement. In most school settings, the adults who have reason to believe this type of activity has occurred are staff colleagues. In these cases, IC 20-33-9-11 makes it sufficient that the reporting is to the principal who then, under IC 20-33-9-13, is required to report the allegations to law enforcement.

Those who make a report are given statutory immunity from civil or criminal liability, unless the report is based in malice or bad faith and the legal presumption is that those who report under these laws are acting in good faith. In Indiana, the gap in these protections is that there is no penalty for failure to report.

According to the 2015 – 16 [National Teacher and Principal Survey](#) (NTPS), 10% of teachers indicated that they had been threatened with injury by students during the prior 12 months and 6% of teachers noted that they had been physically attacked during the same period.

Indianapolis broadcast station WRTV investigated on-the-job staff injuries caused by students. Because Indiana has no centralized data on these matters, the journalist made district-by-district record requests to 24 school districts across central Indiana seeking information on staff injuries between 2017 and 2019. [Their results](#) showed 1,590 student-to-staff incidents in these 24 districts.

It is important to note that these studies (both national and in central Indiana) were conducted pre-pandemic. One can reasonably presume that the levels of stress, trauma and mental health issues, post-COVID will put further pressure on the school climate.

This is a complex matter that at its core is associated with the levels of resources schools have to address the kinds and depth of issues kids have and bring to school each day and the level of community support given to schools in this regard. Kids can't learn if the school climate is compromised. Teachers can't effectively teach, and staff can't serve, if there is the belief that little support exists to protect them.

The manifestation of incidents inside our schools reflects virtually all the other issues ISTA is highlighting in this legislative agenda (financial resources, working conditions, ESP respect, social/racial justice and social services for students).



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TAKE CARE OF RETIREES

Provide a follow-up cost-of-living adjustment (COLA) of no less than 2% and/or a new 13th check for FY 2023 to recognize the lifetime of public service Indiana Public Retirement System (INPRS) retirees gave to the public. As a tentative cost benchmark, a 13th check for FY 2023 from HB 1227 (2021) based upon single payments of \$150 to \$450 (prior to the 1% COLA) depending upon date of retirement was estimated to cost the state \$34.4 million.

Maintain and protect Indiana's defined benefit/annuity hybrid plan for all teachers as an incentive to remain in the profession rather than exacerbating the teacher shortage by worsening retirement benefits.

BACKGROUND

INPRS in general (not including the pre-1996 fund) is **funded at 90.6% overall** (80% funded status is considered healthy). The Teachers Retirement Fund 1996 is funded at 100.9%.

The pre-1996 (pay-as-you-go) plan was long ago shored up with the pension stabilization fund and the projected peak appropriations will occur in FY 2026 and the projected 100% funded status is expected by 2038.

INPRS' net assets are \$36.9 billion.

For eight consecutive years, INPRS received a Public Pension Standards Award for Funding and Administration from the Public Pension Coordinating Council.

For the first time in 10 years, lawmakers provided a 1% true COLA to INPRS retirees in 2021. ISTA supported the COLA because it had been 10 years since the legislature had enacted one. It was past time for a base adjustment. However, it must be noted that a 1% COLA increase for many retirees on an annual basis was less than the stipend (13th check) they had been receiving, which could have been up to \$450. A COLA was necessary, but the state and INPRS is in a fiscal position to do more.

IMPROVE EDUCATORS' HEALTH INSURANCE

ISTA supports state policies designed to rein in hospital costs without reducing service quality and access, including:

- Cap commercial insurance rates for hospital care to a specific percent of Medicare reimbursement
- Adopt the Centers for Medicare & Medicaid Services (CMS) rules for "site neutral" pricing limiting hospitals from charging more for off campus facility visits
- Other changes that increase pricing transparency and regulation



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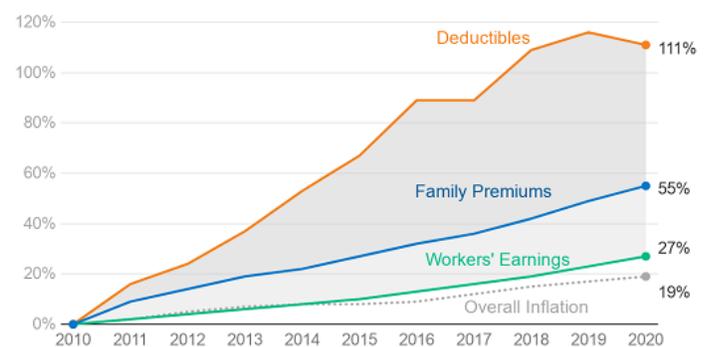
BACKGROUND

Indiana has some of the highest hospital costs in the nation. The most recent Rand 3.0 study, released in September 2020, found that:

- In 2018, private insurers, on behalf of employers and employees, paid Indiana hospitals 304% of what Medicare would have paid for the same hospital services, making Indiana the state with the sixth highest prices in the nation for total hospital prices. Total hospital price includes hospital facility fees, which are fees paid to the hospital for inpatient and outpatient services, and professional fees, which are fees paid to practitioners, such as physicians, for inpatient and outpatient services.
- In 2018, Indiana had the fourth highest facility prices in the nation at 340% of Medicare.
- In 2018, Indiana had the fourth lowest professional fees in the nation at 130% of Medicare.
- The study findings note wide variability of prices across health-systems ranging from 168% to 387% of Medicare in 2018 (health care systems in Indiana were defined as organizations with two or more hospitals).
- Looking at just inpatient prices (facility fees plus professional practitioner fees), prices ranged from 134% to 328% of Medicare in 2018.
- When comparing just outpatient prices (facility fees plus professional practitioner fees), prices ranged from 186% to 442% of Medicare in 2018.
- Hospital quality and safety information is also widely variable and does not correlate with price.
- Indiana has high quality and lower price hospital options available, as well as low quality and high price hospital care.

High hospital rates stand out as a significant factor in the increasing health insurance rates in Indiana. The rising cost of health insurance undercuts our ability to bargain competitive salaries and other important benefits.

Employer Premiums and Deductibles Have Risen Much Faster than Wages Since 2010



NOTE: Average general annual deductibles are for single coverage and are among all covered workers. Workers in plans without a general annual deductible for in-network services are assigned a value of zero.



Source

