

## Are Indiana's Public Schools in Need of Education Deregulation?

Terry E. Spradlin, Jonathan A. Plucker, Kelly A. Prendergast, and Brittany L. Bell

VOLUME 4, NUMBER 1, WINTER 2006

### CONTENTS

<b>Federal Flexibility Options</b> .....	1
<b>Indiana's Efforts in Deregulation</b> .....	3
<b>Charter Schools</b> .....	3
<b>Freeway Schools</b> .....	4
<b>Waivers</b> .....	5
<b>Repeal of Obsolete Statutes</b> .....	6
<b>Superintendent Survey</b> .....	6
<b>Deregulation in Other States</b> .....	9
<b>Prospects for Deregulation in Indiana in 2006</b> .....	10
<b>Policy Perspectives</b> .....	11
<b>Conclusions</b> .....	14
<b>End Notes</b> .....	15

### UPCOMING POLICY BRIEFS AND REPORTS . . .

- ✓ *Enriching the High School Curriculum Through Postsecondary Credit-Based Transition Programs*
- ✓ *Cyber Charter Schools in Indiana: Policy Implications of the Current Statutory Language*
- ✓ *College Remediation Trends*
- ✓ *Education Technology in Indiana: Is it Worth the Investment?*

In November 2004, the Subcommittee on K-12 Education submitted a report to the Indiana Government Efficiency Commission that outlined recommendations regarding K-12 spending efficiencies. The report was explicit in its warning that the current regulatory structure of education in Indiana was not conducive to improving achievement for all students, a primary goal of a number of state and federal education initiatives, particularly the *No Child Left Behind Act* of 2001 (NCLB). In order to remedy this, the Subcommittee recommended in part that the Indiana Department of Education (IDOE) free schools from as much regulation as possible to allow them to focus on the pursuit of academic achievement, shift to a new role of providing support for this endeavor, and align funding to facilitate it.<sup>1</sup>

Despite the controversy surrounding some recommendations in the Subcommittee report, its content provided a timely depiction of a renewed perception that public education in Indiana is too highly regulated. Schools are required to comply with an abundance of rules at the federal, state, and local levels, and it is argued that some of these regulations are mandated without the necessary funding for implementation.

Governor Mitch Daniels lent emphasis to this issue in a recent statement: "The most important topic [facing K-12 education] is an ocean of regulations on the books, many of which I know, from listening to teachers and principals, are getting in the way of education. These are unfunded mandates in many cases, and they are gumming up the works."<sup>2</sup> Subsequently, on December 28, 2005, Governor Daniels and Dr. Suellen Reed, State Superintendent of Public Instruction, introduced the "Dollars to the Classroom" initiative for consideration by the Indiana General Assembly during the 2006 session to provide schools more flexibility and to encourage the allocation of more financial resources to student instruction.

Flexibility options, or waivers, are presently provided by the federal and state governments to give schools more latitude in implementing programs and complying with certain regulations. However, the fact that many educators strongly believe that regulations impede their ability to effectively serve students' needs, in spite of the availability of waivers, raises the question of whether these options are really providing sufficient flexibility, or should actions be taken to further deregulate education in Indiana?

This Policy Brief highlights several federal and state flexibility options currently available to schools, summarizes a survey of superintendents regarding their opinions of the regulatory environment in Indiana, examines deregulatory legislation enacted in other states, and considers whether public education in Indiana would benefit from a round of deregulation. Additionally, policy perspectives are shared by representatives of the Indiana School Boards Association, the Indiana Chamber of Commerce, and the Office of Governor Mitch Daniels.

### FEDERAL FLEXIBILITY OPTIONS

#### Ed-Flex

Before NCLB was established, the Ed-Flex program was available to eligible states wanting increased flexibility from federal regulations. Ed-Flex began in 1994 as a demonstration program under the Goals 2000: Educate America Act. By 1996, 12 states had been designated by the U.S. Secretary of Education as Ed-Flex demonstration states. Subsequently, the Education Flexibility Partnership Act of 1999 made it possible for any state meeting eligibility criteria to apply for Ed-Flex status. Currently, Ed-Flex status gives states the authority to grant waiv-

ers to Local Education Agencies (LEAs) from the requirements of several federally-funded programs, including:

- Title I, Part A, Improving the Academic Achievement of Disadvantaged Children (except for Sections 1111 and 1116)
- Title II, Part A, Subparts 2 and 3, Teacher and Principal Training and Recruiting
- Title III, Part B, Subpart 4, Emergency Immigrant Education
- Title IV, Part A, Subpart 1, Safe and Drug-Free Schools and Communities
- Title V, Part A, Innovative Programs
- The Carl D. Perkins Vocational and Technical Education Act<sup>3</sup>

The last demonstration state's authority ran out in 2002, although 7 of the 12 original demonstration states reapplied and were Ed-Flex states under the 1999 program.<sup>4</sup> There were a total of 10 Ed-Flex states as of 2005, although the Education Flexibility Partnership Act of 1999 was not reauthorized by Congress in 2005 and the states' Ed-Flex designations have expired or are expiring soon. Indiana was one of many states never to seek Ed-Flex designation.

---

### Transferability Authority

Subsequently, the most significant and controversial shift in federal education policy in decades occurred with the passage of NCLB in 2001. Historically, public education has largely been left in the hands of the states. In recent years, however, the federal government has increasingly stepped up its role in the regulation of public education in an attempt to improve the quality and equity of education across the U.S.<sup>5</sup> Thus, schools appear to be operating in a heightened regulatory environment.

NCLB does, however, include provisions for flexibility. Indeed, one of the four pillars of the law is "more freedom for states and communities."<sup>6</sup> The primary example of this freedom is the Transferability Authority, which allows state and local education agencies to transfer up to 50 percent of their allocated non-administrative funds from certain federal programs to other specified programs, without requesting special permission from the U.S. Department of Education (USDOE) to do so. The provision is intended to more effectively meet the individualized financial needs of State Education Agencies (SEAs) and LEAs.

However, if an LEA has been identified for improvement under Section 1116(c)(3) of the Elementary and Secondary Education Act (ESEA), it can only transfer up to 30 percent of its allocated funds from each program. If an LEA has been identified for corrective action under Section 1116(c)(10) of the ESEA, it is not eligible for the Transferability Authority Provision. Programs that LEAs can transfer funds to/from are:

- Section 2121 of Title II, Improving Teacher Quality State Grants
- Section 2412(a)(2)(A) of Title II, Educational Technology State Grants
- Section 4112(b)(1) of Title IV, Safe and Drug-Free Schools and Communities
- Section 5112(a) of Title V, State Grants for Innovative Programs
- An LEA can transfer funds to Part A of Title I, however not *from* it<sup>7</sup>

Programs that SEAs can transfer funds to/from are:

- Section 2113(a)(3) of Title II, Improving Teacher Quality State Grants
- Section 2412(a)(1) of Title II, Educational Technology State Grants
- Section 4112(a)(1) of Title IV, Safe and Drug Free Communities Governor's Funds
- Section 4112(c)(1) of Title IV, Safe and Drug Free Communities SEA funds
- Section 4202(c)(3) of Title IV, 21st Century Community Learning Centers Grants
- Section 5112(b) of Title V, State Grants for Innovative Programs
- An SEA can transfer funds to Part A of Title I, however not *from* it<sup>8</sup>

In Indiana, the State Board of Education (SBOE) has not made any transfers under the Transferability Provision. For the 2003-04 school year, 35 percent of LEAs used the Transferability Provision to transfer funds. The program that LEAs transferred funds *to* more than any other was State Grants for Innovative Programs. The program that LEAs transferred funds *from* more than any other was Improving Teacher Quality State Grants.<sup>9</sup>

In April of 2005, U.S. Secretary of Education Margaret Spellings introduced new guidelines for implementing NCLB, which she calls a more "common-sense approach." Under the new guidelines, states and school districts can apply for more flexibility options to help them meet the ultimate goal of having every student performing at grade level by 2014. What Secretary Spellings refers to as the "bright lines"

of NCLB, such as the mandatory disaggregation of student achievement data, are not up for negotiation. However, as long as states and school districts can prove they are making progress and adhering to the main principles of the law, the U.S. DOE will work with them to develop individualized methods of approaching the requirements of NCLB.<sup>10</sup>

---

### Two Percent Guideline

One relevant example of this new flexibility is the temporary two percent flexibility guideline. The U.S. DOE now acknowledges the existence of a group of students with disabilities who are able to make progress towards performing at grade level, but need more time and special accommodations to do so than their peers without disabilities. The U.S. DOE points to research indicating that this group of students makes up about two percent of the overall tested population. Temporary flexibility is now being granted on a state-by-state basis to allow states to make retroactive adjustments to their AYP (Adequate Yearly Progress) calculations for up to two percent of students that fit this profile.<sup>11</sup> The purpose is to allow schools to obtain the AYP scores they may have obtained if this issue had been addressed in the original NCLB accountability requirements. Indiana has been granted a one-time calculation of 2004 data for LEAs that did not meet AYP solely because of the test data for the students with disabilities group. In anticipation of a future provision that provides a more permanent solution for this group, Indiana is currently asking its educators to assess students who they believe may fit the two percent profile with ISTAR. As an alternate assessment, ISTAR is currently being used in place of ISTEP+ for the one percent of students with the most severe cognitive disabilities who have already been recognized by NCLB. In using ISTAR to rate these students' progress, the goal is to identify and learn more about the two percent of students that would fall under eligibility for alternate assessment.<sup>12</sup>

---

### State-Flex/Local-Flex

Other federal flexibility options under NCLB include the State-Flex and Local-Flex programs. State-Flex allows the U.S. Department of Education Secretary to give up to 7 SEAs the authority to consolidate certain state-level federal funds<sup>13</sup> and to allow 4 to 10 LEAs within each state to consolidate certain federal funds. Florida became the first state to be

awarded State-Flex authority in 2003, although the state concluded later that participating in the program was not in its best interests.<sup>14</sup> Florida opted out of the program, and there are no states currently operating under State-Flex status. Local-Flex allows the Secretary to grant flexibility authority to up to 80 LEAs in states not operating under the State-Flex program. With this authority, LEAs can consolidate certain local-level federal funds and use them for any educational purpose authorized under ESEA.<sup>15</sup> Seattle is the first and only school district to be awarded Local-Flex authority to date.

## INDIANA'S EFFORTS IN DEREGULATION

Spurred by Governor Daniel's public comments and the "Dollars to the Classroom" initiative currently before the legislature, deregulation is a hot topic among state policymakers and educators. However, these discussions about deregulation rarely acknowledge or analyze existing flexibility and waiver mechanisms. These options include charter schools, the Freeway School Program, and various types of waivers. Additionally, in 2005 the legislature repealed a short list of statutes considered to be obsolete.

### Charter Schools

Although charter schools have existed in other states since as early as 1992, Indiana did not pass charter school enabling legislation until 2001,<sup>16</sup> and the first charter schools in the state did not open until the 2002-03 school year. Currently there are 28 operating charter schools in the state, mostly concentrated in Indianapolis.<sup>17</sup> Although charter schools in Indiana can be authorized by local school boards, the mayor of Indianapolis, and any public four-year university in the state, the majority of charter schools have been sponsored by the mayor and Ball State University. Only two currently operating charter schools are sponsored by a local school board (both by Evansville Vanderburgh School Corporation), and no charter schools are sponsored by a university other than Ball State.<sup>18</sup> Less than one percent of public school students in Indiana were enrolled in charter schools during the 2004-05 school year, compared to almost six percent in Arizona and almost 24 percent in Washington D.C.<sup>19</sup>

Deregulation is a concept inherent to charter schools. The purpose of deregulating charter schools is to give them the freedom to design

and implement creative and innovative educational models and methods while holding them accountable for the academic achievement of their students. In Indiana, charter schools are exempt from the regulations public schools must follow, except those listed in Table 1. However, national research shows that charter schools are not as deregulated as they are assumed to be. Charter proponents often have to make political compromises in order to get charter laws passed, resulting in caps and limitations to autonomy. In addition, over 40 percent of charter schools nationwide report not having enough autonomy over curriculum and the school calendar, two areas originally meant to hold considerable flexibility for charter schools.<sup>20</sup>

Are charter schools in Indiana truly free to implement innovative methods? Most seem to at least be operating under an educational philosophy that includes non-standard practices. Some charter schools are run by "educational management organizations" (EMOs) that offer pre-packaged nonstandard curricula. One example is Charter School of the Dunes in Gary (serving grades K-5), which is managed by Mosaica Education Inc., an organization that also manages other charter schools across the nation. At Charter School of the Dunes, nonstandard approaches to education include an extended school day and calendar year, use of technology integrated into the curriculum, and a school day that consists of core subjects such as math and reading in the morning, and a "Paragon" curriculum, which includes various courses in social studies, the performing arts, and character development, in the afternoon. The school also provides full-day kindergarten and foreign language for all children beginning in kindergarten.<sup>21</sup> Other charter

schools choose to start from scratch, developing their own philosophy of education and curriculum. For example, Galileo Charter School in Richmond (serving grades K-3) bases its educational methods on the cornerstones of literacy development, character education, and self-esteem building.<sup>22</sup>

Are the methods used by charter schools working to improve student academic performance? Nationally, studies attempting to investigate the academic performance of charter schools have come up with inconsistent findings. Like traditional public schools, charter schools perform at a wide range of levels. Some are high-achieving, while others are in need of improvement. Indiana charter schools have only been in operation for a few years, which is not enough time to make conclusions regarding their efficacy. However, in 2004, 10 of the 22 charter schools in operation were eligible to receive AYP determinations under the federal NCLB accountability system. Only 3 of the 10 did not make it.<sup>23</sup> In 2005, Bart Peterson, Mayor of Indianapolis, released an accountability report for the charter schools he authorized. Five had been operating long enough to receive an AYP determination, and only one of those, Flanner House Higher Learning Center, had its charter contract revoked by Mayor Peterson for various reasons, including poor academic performance.<sup>24</sup> AYP data for the rest of the state's eligible charter schools in 2005 was not available at the time this Policy Brief was written. Despite the questions of the efficacy of charter schools in Indiana, it is apparent that the expansion of charter schools will continue due to a growing interest by LEAs in organizing or sponsoring charter schools.<sup>25</sup>

TABLE 1.

#### Statutes and Rules Applicable to Charter Schools<sup>a</sup>

IC 5-11-1-9	Audits by state board of accounts
IC 20-35	Special education
IC 20-26-5-6	Subject to laws requiring regulation by state agencies
IC 20-33-2	Compulsory attendance
IC 20-33-8-16	Firearms and deadly weapons
IC 20-34-3	Health and safety measures
IC 20-30-3-2 and IC 20-30-3-4	Patriotic observances
IC 20-31	Accountability for school performance and improvement
IC 20-32-(4, 5, 6, 8)	All statutes related to standardized assessment (ISTEP+)

<sup>a</sup> For a complete listing of statutes and rules applicable to charter schools, refer to Indiana School Laws and Rules. (2005-2006). IC 20-24-8-5.

## Freeway Schools

Prior to the establishment of the charter school law in 2001, the Indiana General Assembly passed a law in 1995 establishing the Freeway School Program.<sup>26</sup> This program is intended to provide more autonomy and flexibility to public schools that become Freeway Schools by giving them the authority to waive certain statutes and regulations (see Table 2). In exchange for this authority granted by the SBOE, Freeway Schools must improve the academic performance, attendance rates, and graduation rates of their students. The law also allows non-public schools to become Freeway Schools.

There are currently 42 schools under contract as Freeway Schools, 41 of which are non-public. The only public Freeway School is the Indiana Academy for Science, Math, and Humanities at Ball State University. It is a two-year residential high school for gifted and talented students. What do non-public schools stand to gain from freeway status? According to Jeffrey Zaring, State Board Administrator, state accredited schools must take part in ISTEP+ requirements, and non-public schools under Freeway status are automatically state accredited. Therefore, non-public schools may benefit from freeway status in that they gain access to ISTEP+ testing without the level of regulation that public schools face.<sup>27</sup>

This information also begs the question, “Why aren’t more public schools applying for Freeway status?” On a statewide survey of school corporation superintendents (see pages 5-8 for additional survey information), some respondents indicated that the Freeway Schools application process was too bureaucratic itself. School corporations are required to submit an application for Freeway status to the SBOE. The application must specify the regulations the school corporation wishes to waive, with justification for the waiver, but there is no certainty that the application will be approved.

Of the 42 Freeway Schools, 33 have waived statutes concerning curriculum, 17 have waived textbook regulations, 15 have waived instructional time requirements, and 11 have waived ISTEP+ requirements. Statutes pertaining to pupil/teacher ratio, pupil/principal ratio, and high school credits have been waived by one school each. Most Freeway Schools are waiving at least two of the eligible provisions. The schools that waived the ISTEP+ requirements did so before the new stipulation regarding alternate assessment, and will be allowed to continue their suspension of ISTEP+ requirements until their five-year Freeway School accreditation expires.<sup>28</sup> The same applies to the school waiving the pupil/principal ratio statute because the right to waive this statute is no longer allowed.

There are three public schools in Columbus that once had freeway school status but chose not to continue the program. One elementary school used the Freeway School Program to gain access to services provided by the Modern Red SchoolHouse Institute. Another was implementing the C.L.A.S.S. program, and a high school wanted to use its Freeway status as a means to improve its educational offerings to students. At the time, the two elementary schools were also using Freeway status to waive ISTEP+, and all three schools were waiving the Performance-Based Accreditation system. ISTEP+ can no longer be waived unless the LEA has a replacement assessment that is criterion-referenced and is based on the Indiana Academic Standards; no LEA or school has yet been able to meet these criteria for a replacement assessment. Also, the school improvement model the three schools wanted to use, the Baldrige National Quality Program, has since become an approved school improvement model, thus leaving no need for them to waive the Performance-Based Accreditation system.<sup>29</sup>

TABLE 2.

### Rules and Statutes a Freeway School Can Elect to Suspend<sup>a</sup>

#### Concerning Curriculum and Instructional Time:

IC 20-30-2-7	Minimum school term
IC 20-30-5-8	Safety education curriculum
IC 20-30-5-9	Hygiene curriculum
IC 20-30-5-11	Alcohol, tobacco, prescription drugs, controlled substance curriculum
511 IAC 6.1-3-4	High school curriculum time requirements
511 IAC 6.7.6	Required and elective credits
511 IAC 6.1-5-0.5	General curriculum principles
511 IAC 6.1-5-1	Kindergarten curriculum
511 IAC 6.1-5-2.5	Elementary school curriculum
511 IAC 6.1-5-3.5	Middle level curriculum
511 IAC 6.1-5-4	High school curriculum

#### Concerning Textbooks:

IC 20-20-5-(1, 2, 3, 4)	Adoption of textbooks
IC 20-20-5-23	Contracts, payment terms
IC 20-26-12-24	Local textbook selection
IC 20-26-12-26	Mandatory offer to purchase
IC 20-26-12-28	Waiver of adoption requirements
IC 20-26-12-1	Mandatory purchase and rental; public school students
IC 20-26-12-2	Purchase and rental; rental fee; limitations
511 IAC 6.1-5-5	Textbooks

#### Other:

511 IAC 6-7	Graduation requirements
IC 20-31-4	Performance-based accreditation system
511 IAC 6.1-4-1	Pupil/teacher ratio
IC 20-32-5	ISTEP+ <sup>b</sup>

<sup>a</sup> Indiana School Laws and Rules. (2004-2005). IC 20-26-15-5

<sup>b</sup> ISTEP+ may only be suspended if an alternative locally adopted assessment program is established in its place.

## Waivers

### Nonstandard Course/Curriculum Waivers

Schools can apply for a non-standard waiver when they wish to offer a course or curriculum that is not approved by the state. This includes waivers for staffing (to allow teachers to teach courses they are not certified to teach), programs (such as career programs), course content, and instructional methods. In order to be granted this type of waiver, the school must provide evidence that the non-standard course or curriculum they are proposing will better serve its students than anything approved by the SBOE. The waivers must not exceed three years, and schools must provide annual reports to the IDOE documenting the continual effectiveness of the course or curriculum they are implementing.<sup>30</sup> From 1995 to 2005, Indiana schools applied for 420 waivers, 400 of which were approved. The average number of waivers granted per year was 36. Only 54 percent of the 293 public school districts in Indiana were responsible for these waiver requests. Fifty-four percent of the schools that applied requested waivers for staffing, 50 percent requested waivers for unapproved courses, and 2 percent requested waivers for unapproved programs (see Figure 1) If more than one type of waiver was requested in an application—for example a request to offer a course that was not only unapproved but would also be taught by a teacher who was not certified in that area—it was counted as one waiver.<sup>31</sup>

### Textbook Waivers

A school corporation can apply for a waiver to use a textbook that has not been officially adopted by the SBOE if it feels that the educational needs of its students will be better served through the use of the unadopted textbook.<sup>32</sup> From the 1993-94 school year through the 2004-05 school year, the state granted 4,588 textbook waivers. Forty-three percent of these waivers were granted for English and foreign language textbooks, 22 percent for science and health textbooks, 4 percent each for social studies and math textbooks, 3 percent for reading textbooks, and 24 percent for textbooks in miscellaneous subjects<sup>33</sup> (see Figure 2).

### Waivers under P.L. 221-1999

Under Public Law 221 (P.L. 221), which is Indiana's accountability law established in

1999, public schools must adopt a school improvement plan and have it approved by the governing body of its LEA. If the school did not use a model already approved by the IDOE for the development of its plan, it must be reviewed by the IDOE to ensure that all necessary components are present. Schools can include waiver requests within their school improvement plans that can be granted by the governing body of the LEA. The governing body may waive any rule adopted by the SBOE except for rules relating to the following: health or safety of students or school personnel, the special education rules under 511 IAC 7, rules that would bring the school into noncompliance with federal regulations

if suspended, and curriculum and textbooks.<sup>34</sup> In addition, upon request of a governing body of a LEA, the SBOE may waive for a school or a school corporation any statute or rule relating to curriculum and textbook adoption. The IDOE reports that waiver requests were submitted in 2005 from the school boards of 18 school corporations. The waiver requests addressed minimum instructional time and day requirements, credit requirements for student graduation, teacher licensing issues, textbooks, and curriculum. Not all of these items are eligible for waiver under P.L. 221; nevertheless, school corporations were not deterred from submitting such requests.<sup>35</sup>

Figure 1

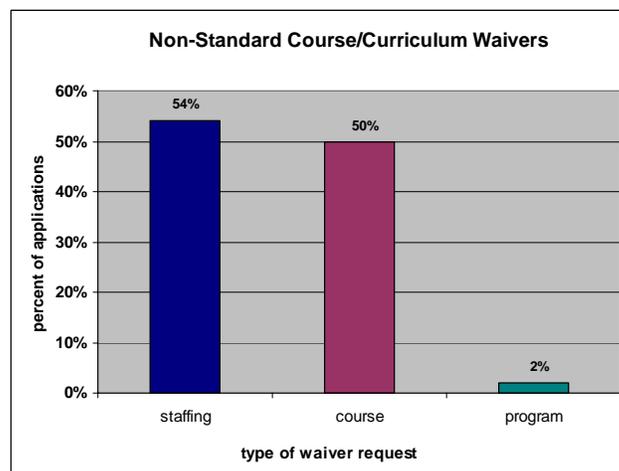
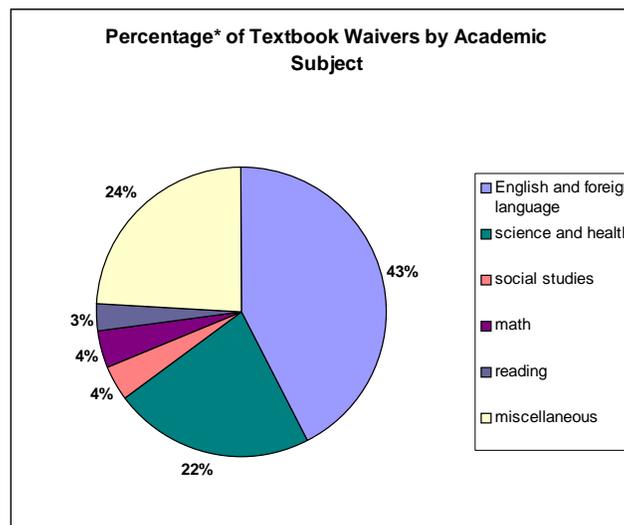


Figure 2



### Instructional Time Waivers

The minimum number of instructional days required in Indiana is 180, and if a school corporation fails to conduct the minimum number, it is subject to a penalty. The penalty is a reduction in the August tuition support funds provided by the state to the school corporation. However, Indiana Code allows school corporations to apply for a waiver from the penalty if the relevant instructional days were canceled due to extraordinary circumstances.<sup>36</sup> Individual school corporations are seldom granted waivers in this category, although blanket waivers have been issued by the state superintendent of public instruction on occasion to all school corporations when an extreme number of days have been missed due to severe winter weather.

### Repeal of Obsolete Statutes

During the 2005 session, the Indiana General Assembly passed House Enrolled Act 1288 (PL 1-2005) to address the recodification of Title 20, the section of the Indiana Code pertaining to elementary and secondary education. The purpose of the recodification was to restructure Title 20 to make it more logically structured after the passage of a multitude of new education laws over many years. No substantive changes were made to the provisions of Title 20; however, it was reorganized under a new code structure.

Senate Enrolled Act 397 (PL 231-2005) also was enacted in 2005 to coincide with the recodification of Title 20. It not only made amendments to Title 20, but also repealed several obsolete provisions from the law in an effort to remove unnecessary regulations.<sup>37</sup> The repealed provisions were part of Indiana Code 20-23-16, which includes miscellaneous provisions concerning the organization of school corporations. These rules dealt mainly with payment of school aid bonds during reorganization, the power of consolidated school boards to levy taxes within the limits of the school corporation to meet maintenance costs, the transportation of students affected by consolidation, county school consolidation, the annexation of territory by school corporations, and the financial responsibilities of school corporations involved in annexation of territory.<sup>38</sup>

### SUPERINTENDENT SURVEY

In November 2005, Center for Evaluation and Education Policy researchers invited Indiana public school superintendents to participate in a survey regarding education regulations. Of the 292 superintendents, 121 (41%) completed the survey. Regarding district locale, 65% of the superintendents classified their district as rural, 14% suburban, 12% urban, and 9% town. In comparison, 42% of the 292 districts in the state are classified as rural, 15% suburban, 9% urban, and 34% town.

### Do Superintendents Believe that Indiana K-12 Public Education is Over-regulated?

Nearly all superintendents (95%) believe that Indiana has over-regulated public education, with only 5% believing that education is appropriately regulated (Figure 3).

### Is Over-regulation Due to Federal, State, or Local Regulations?

Of the superintendents who believe education is over-regulated, 63% indicated that this situation is caused by a combination of federal, state, and local regulations (Figure 4). An equal number of superintendents (18%) feel that over-regulation is primarily due to federal or state regulations. No respondents replied that over-regulation is primarily due to local regulations.

Figure 3

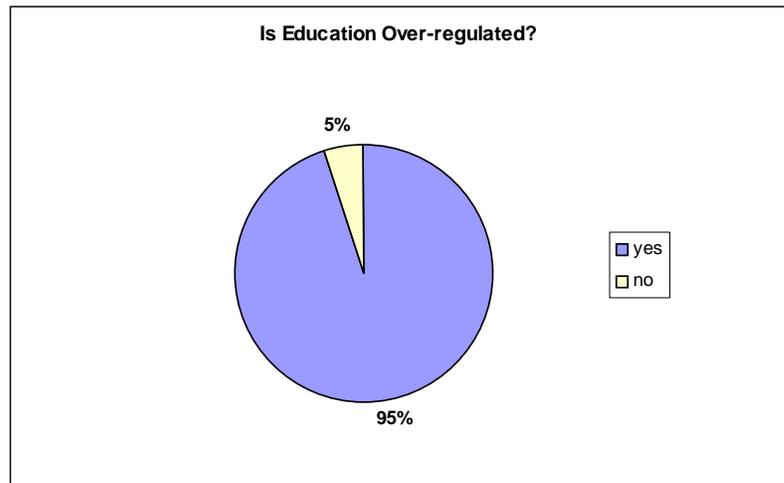
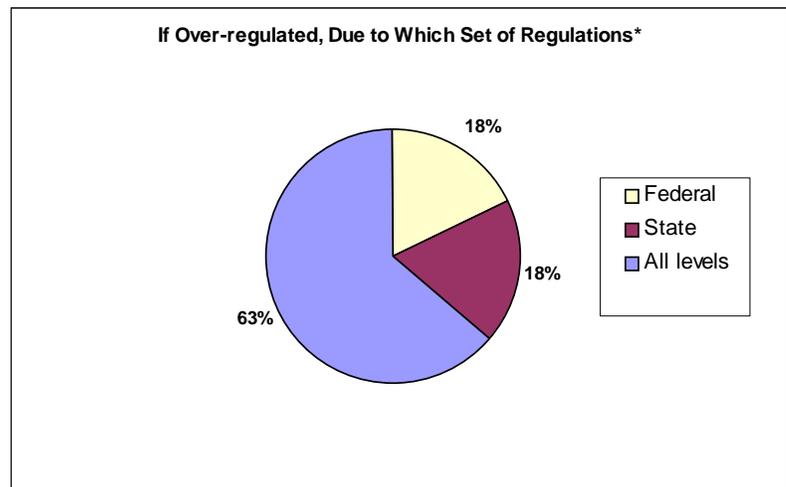
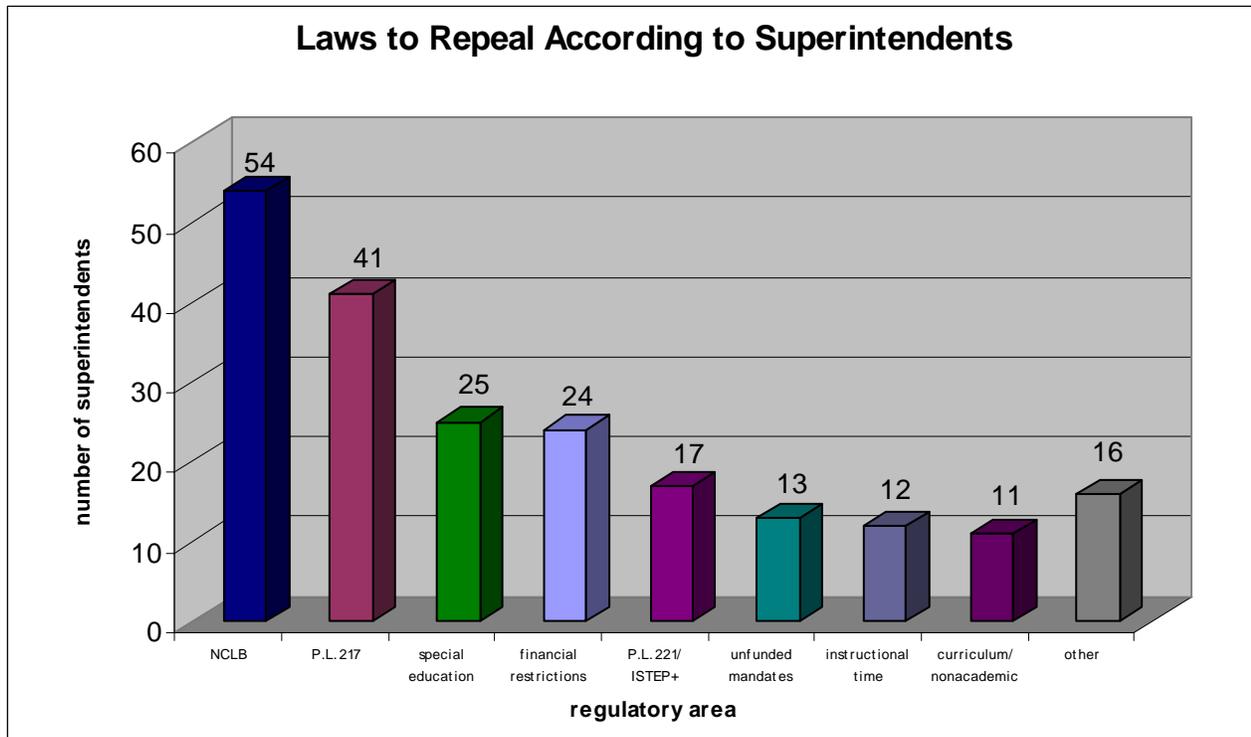


Figure 4



\* 115 respondents answered this question

Figure 5



**Which Laws and Regulations Would Superintendents Like to See Repealed?**

When asked to identify specific statutes that they thought should be modified or repealed, 111 superintendents (92%) provided specific responses that can be organized into the following nine categories, in decreasing order of frequency: (1) NCLB; (2) P.L. 217; (3) special education; (4) financial restrictions; (5) P.L. 221 and ISTEP+; (6) instructional time and professional development; (7) curriculum and nonacademic requirements; (8) unfunded mandates; and (9) miscellaneous (see Figure 5).

NCLB was the most commonly cited regulatory category. Of the 54 superintendents who identified NCLB, 32 superintendents believe the entire law should be repealed or at least amended. One superintendent’s comment echoes the general belief that “NCLB needs to be changed. With less funding and more mandates, they are setting schools up for failure.” Twenty-two superintendents referred to specific NCLB provisions that are burdensome. The most frequent provisions cited were those pertaining to highly qualified teacher regulations, AYP requirements, and reporting requirements. For example, one respondent cited “NCLB regulations stipulat-

ing sub-group expectations in special education students.” Another administrator went so far as to say, “NCLB is ridiculous because it is not research-based and does not adhere to statistical possibilities for continued improvement. Reporting regulations have required us to hire more personnel.”

In the next most frequent category, 41 superintendents cited laws pertaining to P.L. 217. Thirty-six cited P.L. 217, collective bargaining, or teacher tenure. For example, one administrator said that “there are too many hoops to go through to change education at the local level because of this law...discussion goes too far to keep me from implementing change.” Five suggested ways in which the law could be changed. One respondent stated that “[P.L. 217] prevents changes that are needed for improvement in achievement because teachers hide behind the law ... one suggestion is to eliminate the status quo contracts when master contracts end.” Two superintendents suggested replacing collective bargaining with a state salary schedule.

Twenty-five superintendents referred to regulations pertaining to special education. The Individuals with Disabilities Education Improvement Act of 2004 (IDEIA), Article 7, and Section 504, were all referred to by

respondents as specific regulations they would like to see repealed. One superintendent indicated that Article 7 (Indiana’s special education law) should not exceed the requirements of IDEIA (the federal special education rule and the federal regulations). Several would like to repeal the provisions of IDEIA that deal with the discipline of students in special education, such as the “continuation of services for expelled special ed students.” One superintendent, in reference to due process regulations, said “Parents need to be held accountable for costs when they take schools to hearing or court and the schools are found to be correct in what they have done.”

Twenty-four superintendents cited regulations pertaining to the financial restrictions category. Included in this category were responses referring to the budget process, funding formula, student attendance requirements, property tax control, construction laws, and grant use restrictions. For example, one superintendent said “I would like to be able to more easily move money between funds,” while another referred to the budget process as a “Rube Goldberg paper chase.” Still another superintendent said he would like to “remove [the] maximum levy for [the] capital projects fund.”

Seventeen superintendents referred directly to P.L. 221 (Indiana’s accountability law) or ISTEP+. One respondent suggested changing P.L. 221 to “allow principals to name school improvement committees,” referring to the stipulation that teachers must be union members to be eligible for appointment to the committees.

Thirteen superintendents stated that unfunded mandates should be repealed or cited specific mandates that they want to see repealed because of a lack of funding. One administrator in citing all unfunded mandates stated, “They are restrictive and funding is not present to support them. School budgets are tight in Indiana.” The specific unfunded mandates referred to by the administrators include those for foreign language programs, special education preschool, Prime-Time aides, bullying committees, and transportation.

Requirements and restrictions pertaining to instructional time and professional development time were cited by 12 superintendents. Most of these respondents feel they should have more flexibility in determining how much time per day their students spend in instruction, or how many instructional days are necessary per year. Some feel they should have more flexibility in determining how professional development time is used, such as one superintendent who stated that “The six one-half professional development days should be able to be used as three professional development days or any combination up to three days.” Eleven superintendents cited curriculum requirements or nonacademic requirements. Nonacademic requirements listed range from “all requirements not related to the education of students” to “being required to deal with social issues which we have no control over, for example, obesity.” Indeed, when superintendents cited specific nonacademic requirements, they most often referred to wellness legislation or social issues.

Sixteen superintendents cited other regulations that did not fit within the eight main categories. Examples of these include high school graduation requirements, charter school enabling law, legal settlement issues, fire and severe weather drills, all state and federal regulations, and reporting requirements.

---

***. . .the federal government has increasingly stepped up its role in the regulation of public education in an attempt to improve the quality and equity of education across the U.S.***

***Thus, schools appear to be operating in a heightened regulatory environment.***

---

***Have Districts Utilized Any of the Existing Flexibility Options Offered by the State?***

Ninety superintendents (74%) reported having received textbook waivers, 77 (64%) received instructional time waivers, 54 (45%) received non-standard course/curriculum waivers, 13 (11%) included waiver requests in a school’s improvement plan under P.L. 221, 3 (2%) have charter schools operating within their district, none have applied for Freeway School status, and 17 respondents (14%) indicated that their districts have not utilized any of the flexibility options. Table 3 presents the flexibility options used by superintendents broken down by whether they believe public education is overregulated.

***Do Superintendents Find Existing State Flexibility Options to be Useful?***

Most superintendents ( $n = 85$ , 70%) find existing flexibility options to be useful, although four superintendents qualified their responses. Only 34 superintendents (28%) do not find the flexibility options to be useful (two superintendents did not respond). Not surprisingly, most of the superintendents (71%) who indicated that they have not utilized any of the flexibility options indicated that they do not find them to be useful.

If superintendents stated that they did not find current flexibility options to be useful, they were asked to explain their response: 16 of the 34 (47%) feel that the available options are not sufficient or properly aligned with the current regulatory environment and 15 (44%) find the process of applying for waivers or complying with stipulations involved in waivers (for example, proving the need for a waiver) to be too cumbersome. Three administrators believe that current flexibility options are inconsistent and are not clearly defined, with one superintendent stating that there has been “less flexibility during the last 12 months.”

***How Would Superintendents Change the Regulatory Structure of K-12 Education?***

Not surprisingly, superintendents provided a range of opinions about how to change Indiana’s regulatory environment for education. Responses can be classified into six categories: more local control or increased flexibility; no unfunded mandates; repeal or amend P.L. 217; equalize the regulations applied to traditional and charter schools; consolidate/eliminate/limit power of entities; and miscellaneous suggestions (Figure 6).

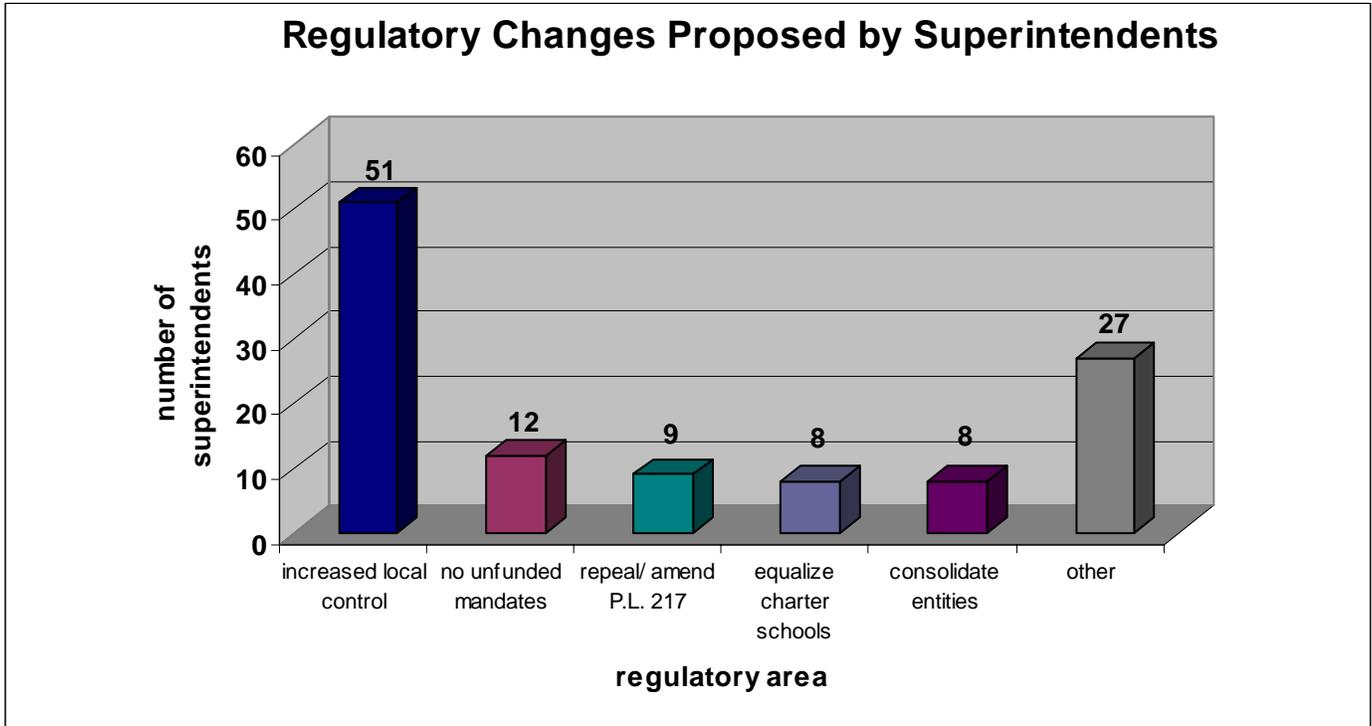
Fifty-one superintendents (42%) said they would give school boards more control, or increase the amount of flexibility provided locally. Some gave specific examples of what local school boards should have control over, such as one respondent who said, “I would

**TABLE 3.**

**Views on Regulation and Use of Waivers/Flexibility Options**

	Is Education Over-regulated?	Charter Schools	Freeway Schools	Waivers under P.L. 221	Nonstandard Curriculum Waivers	Textbook Waivers	Instructional Time Waivers	None
Yes	115	2	0	12	52	86	71	17
No	6	1	0	1	2	4	6	0
Total	121	3	0	13	54	90	77	17

Figure 6



return authority for curriculum requirements and time with students to the local school boards.” Another said, “Give more control back to local boards, especially in the expenditure of locally raised property taxes.” The majority, however, simply said that school corporations should have more control. A few of these acknowledged that local school districts should be held accountable for academic achievement by the state or federal government but want control over how to accomplish this goal, such as one administrator who said, “Hold us accountable for results and let the district decide how best to accomplish the expected results.”

Twelve superintendents (10%) said that they would get rid of unfunded mandates. Some felt that unfunded mandates should simply be eliminated, while others said they would make compliance with unfunded regulations optional or contingent on funding. One superintendent said “all mandates should be funded 100% by the branch of government that passes them.” Another said, “When a mandate is given by the state it must be a funded mandate or it should not be required.”

Nine superintendents (7%) said they would either repeal or amend P.L. 217. One common complaint about this law appears to be the amount of time and work it takes local school

boards to deal with collective bargaining, and many superintendents suggest having the state take over the responsibility of determining teacher salaries. Another common complaint is that it is difficult to remove ineffective teachers because of teacher tenure and protection laws. One superintendent says, for example, that “it is too difficult to get rid of long-term but ineffective certified employees. Teachers need to know that they need to stay current and be effective in the classroom in order to maintain their employment status.”

Eight superintendents (7%) made suggestions that referred to equalizing the regulations applied to traditional and charter schools. Some said they would deregulate traditional public schools to the same level as charter schools, while others said they would make charter schools comply with the same regulations as those required of traditional public schools. One superintendent said, “All public schools should have the same rights [as] charter schools. If we weren’t so regulated there would be no need for charter schools!” (In a separate question, 81% of respondents agreed that school corporations would benefit from the exemptions offered to charter schools.)

Eight superintendents suggested consolidating, eliminating, or limiting the power of specific entities in some way. For example, one superintendent recommended eliminating local school board structures, and another would like to limit the authority of the Department of Local Government Finance. Still another said, “There are too many entities with their hands in the batter. Consolidate the DOE, the Education Roundtable, and the Department of Workforce Development into one entity that is apolitical.”

Twenty-seven superintendents (22%) referred to changes they would make that did not fit within the main five categories. Examples of some of these changes include lessening the politics involved in public education, changing how student improvement is measured, streamlining reporting, and shifting the role of the IDOE from mandating compliance with regulations to providing support for improving student achievement. A few superintendents recommended appointing the superintendent of public instruction, and a few recommended appointing school boards instead of electing people for these positions.

Ninety-eight respondents (81%) said school corporations would benefit from the exemptions offered to charter schools, 22 (18%) said they would not, and one did not answer.

---

## DEREGULATION IN OTHER STATES

Several states have passed deregulation legislation in recent years. The following are examples of legislation passed since 2000.

In 2000, the state of Kentucky passed House Bill 884, which allows LEAs or superintendents to request waivers from the Kentucky Board of Education that apply to reporting and paperwork requirements, except those that concern federal law and anything relating to health, safety, and civil rights. North Dakota passed Senate Bill 2166 in 2001, allowing the Superintendent of Public Instruction to waive rules regarding accreditation, as long as the waiver request has the potential to result in improved educational opportunities and encourages innovation. Two states passed deregulation legislation in 2003. New Mexico enacted Senate Bill 80, which allows schools to waive certain requirements that do not interfere with NCLB, such as accreditation review, length of school day, graduation requirements, and the purchase of instructional materials. Tennessee enacted Senate Bill 1024, allowing the Commissioner of Education to authorize a maximum of 16 LEAs to implement alternative education programs that focus on school-based decision making. In 2004, Illinois signed Senate Bill 3091 into law, amending its school code. The code now allows for waivers or modifications of mandates (within the school code and State Board rules) that can be requested by joint agreement of LEAs (or a regional superintendent acting on behalf of LEAs) and programs operated by the regional office of education.<sup>39</sup>

---

## PROSPECTS FOR DEREGULATION IN INDIANA IN 2006

---

### Indiana General Assembly

A number of education deregulation bills have been filed at the time of this publication for consideration in the second regular session of the 114<sup>th</sup> Indiana General Assembly. In particular, Senate Bill 323, as well as House Bill 1006, encompasses the deregulation components included in the “Dollars to the Classroom” initiative announced by Daniels and Reed on December 28, 2005. Other bills to monitor that address deregulation include House Bill 1312 and Senate Bill 324.

In broad terms, both SB 323 and HB 1006 would provide school corporations with explicit authority and latitude to enter into financial arrangements (e.g., pooling of resources and consolidation of purchases between multiple school corporations) to generate more money for classroom instruction and to diminish the cost of non-instructional and administrative expenses. The role of education service centers would be enhanced to facilitate the purchase of a variety of products and services on behalf of participating school corporations, including energy, textbooks, insurance, food services, facilities maintenance, and other supplies and services. The legislation also calls on the SBOE to put forth efforts to examine statewide purchasing of such items as school buses, technology, and textbooks to reduce variations in costs locally and to provide greater economies of scale to minimize these expenditures statewide. Finally, the legislation would require the IDOE and the SBOE to develop a plan to upgrade the financial management, analysis, and reporting systems for school corporations and schools.<sup>40, 41</sup>

---

### Indiana Government Efficiency Commission

The actions of the state legislature to pass the aforementioned bills will not be the lone effort to address education deregulation this year. In 2005, the Indiana General Assembly reestablished the Indiana Government Efficiency Commission, in part to examine school funding. More specifically, a K-12 Non-Instructional Funding Subcommittee was created to examine and make recommendations to reform K-12 education funding and budgeting pertaining to non-instructional or non-classroom expenditures so that additional funds are available for student instruction and teacher training. The Subcommittee began its work in November 2005, and Mr. Steve Baranyk, Chairman, has stated at public meetings that the Subcommittee will meet bi-weekly through August 2006 to study these issues and develop recommendations for consideration by the governor, IDOE, and SBOE, and possible action by the legislature in 2007. Undoubtedly, the recommendations of the Subcommittee will be greatly impacted by the actions of the Indiana General Assembly on the various education deregulation bills.

---

**See Conclusions and Recommendations on page 14.**

# Policy Perspectives

## DEREGULATION OF PUBLIC SCHOOL STATUTES: A TIME FOR REFLECTION

**Dr. Frank Bush**



Federal and state statutes that mandate specific practices control Indiana school corporations. Some of the statutes are viewed by school board members as inhibitors of local control and should be repealed to provide flexibility. But before expectations are raised about eliminating certain statutes, a thoughtful deregulation analysis should be conducted to ascertain which statutes should be repealed. It is unquestionable that certain unfunded mandates should either be funded or repealed, as well as antiquated statutes. There are, however, many statutes that are necessary to provide consistent and equitable public education.

Rather than generalizing that statutes are unnecessary, a more realistic approach engages responsible research, analysis and data. Reflective thought, therefore, should seek answers to questions. Some of the pertinent questions may be, but are not limited to: How will a consistent public education be provided, if certain statutes are repealed? What is the political impact of repeal? Do school officials really want local control that precludes federal and state support of local decisions? Should federal and state funding support the public schools without consistent standards?

Will deregulating certain statutes revert public schools to the early-1900s education model in an era of global competition and technological advancements? Will various advocacy groups acquiesce to eliminate standards that were enacted with their support? In other words, there are legitimate concerns to review before a statute is repealed. And, generally, statutes have been enacted with lengthy debate, in-depth testimony and special interest lobbying; they should be repealed with similar actions to ensure a proper assessment of the deregulation impact.

Reflective thought must also be given on what is being asked for and what the impact will be. This will require a definition of the mandate. In Webster's New World Dictionary, deregulation could be defined as "repealing a law that regulates conduct." But since there are many mandates, of which all are not necessarily onerous, a closer examination of the regulated conduct is needed. That is: Does specific behavior require regulation? If the answer is yes, then no repeal; if no, then repeal. Because of such a wide range of mandates, opinions for recommending mandates to repeal should be based on clarity of definition, not emotional retorts.

With this notion, if asked, school board members and school officials may provide a litany of mandates to repeal such as collective bargaining, tenure, prevailing wage, or special education because of the fiscal impacts or philosophical views.

But these are not possible to repeal because of employee rights, political realities, economic development initiatives or federal requirements. Essentially, then, many of the mandates exist because of special interest group advocacy, student academic achievement or state economic competitiveness and will not be repealed or deregulated.

With these reflections is a reality; the lack of revenue to fully implement statutory directives is perceived as a serious breach of trust on behalf of the federal and state governments by local school officials because the public schools remain accountable for the results without the resources to implement. It is, therefore, in light of these circumstances that school board members and school officials have discussed and considered the deregulation of mandates and will be disappointed if meaningful deregulation is not enacted. But what will conceivably be the end result is that deregulation just "tinkered around the periphery" rather than enacting significant repeals. In summary, minimal repeals may be the final determination because the complexities of deregulating public policy initiatives are overwhelming.

Dr. Frank Bush is  
Executive Director of the  
Indiana School Boards Association

# Policy Perspectives

## DEREGULATION REQUIRES SHIFT IN STATE'S ROLE

David Holt



State statutes and regulations play a large part in the operation of Indiana's public schools. These statutes and regulations are often impediments that bind schools to certain conduct that they might not follow if not forced to do so by the state. Some regulations are necessary evils, while others are just unnecessary. The questions posed are: "Which regulations are value added - needed to regulate conduct? Which regulations are a hindrance to school corporations and should be eliminated?"

I constantly hear on many travels around the state that regulation is the problem that stifles schools and stops innovation. However, in 1993-1994 when a deregulation bill was advocated that would have eliminated almost all regulations governing schools, the education community opposed it. The reported reason: Some of the statutes and regulations were supported by the education community as value added. So, how do we find out which are value added and which are not?

The Indiana Chamber of Commerce supports eliminating over-regulation of classroom instruction, as well as school asset, personnel and finance management. It is fundamentally important to shift the state's primary role in K-12 education from regulatory compliance to consultancy with our public schools. Some state decision-making power should be given to local school governance, including,

but not limited to, the authority to develop curriculum, choose textbooks (that meet state standards) and determine the amount of time students spend on-task in each subject area.

As would be expected, there are some exceptions that deserve to be maintained at the state level. Statutes and regulations that seek to ensure that students are performing at a world class level and that also help produce safe schools must remain. These include the areas of:

- discrimination;
- health and safety;
- academic performance standards;
- statewide assessments;
- incentives for academic performance;
- school rehabilitation measures;
- school performance reporting; and
- school instruction time.

Otherwise, the remaining statutes and regulations should be laid on the table for discussion during the 2006 General Assembly. Understanding this, the Chamber has worked with a number of individuals and groups to develop deregulation legislation that is acceptable to all parties. The group - which includes Rep. Bob Behning (R-Indianapolis), chair of the House Education Committee; Sen. Ronnie Alting (R-Lafayette), ranking majority member on the Senate Education and Career Development Committee; the Indiana School Boards Association; the Indiana Association of Public School Superintendents; the Indiana State Teachers Association; the Indiana Growing Suburban Schools Association; and the Indiana Association of School Business Officials - is discussing potential statutes and regulations that could be included in legislation.

The Chamber supports wholesale deregulation that gives all public schools the same flexibility to operate as charter schools. However, understanding the reality of the General Assembly, the Chamber believes that some regulatory relief, offering half a loaf, is better than nothing. Will this deregulation go far enough in giving schools the flexibility needed? Probably not.

As pointed out earlier, agreements are difficult to come by between the various education groups on what constitutes a necessary regulation compared to an unnecessary regulation. In order to pass legislation that will have buy-in from **all** public school groups, Indiana schools probably won't get the full loaf. If the education community truly wants to see the improvement that is demanded by federal and state government, they will need the ability to innovate and make changes. The only way to do this is to give all schools the ability to operate as charter schools. This will require buy-in from school boards, administrators, teachers and all involved in the education process.

As many Hoosiers are aware, the state of Indiana has struggled financially in recent years. Schools have had to make some cut-backs, especially in the transportation arena with the skyrocketing gasoline prices. Deregulation legislation in this area can help bring some needed relief in paperwork requirements and financial operations. It will not cure the ailing patient, but it can give some assistance.

**David Holt is  
Indiana Chamber Vice President of  
Workforce Development Policy and  
Federal Relations**

# Policy Perspectives

## DEREGULATION DRIVES RESULTS

David Shane



Teaching is among our most needed and most difficult professions. At all levels - workforce, higher and K-12 - education is an essential, direct enabler of economic development and a critical, direct driver of individual standard of living and community quality of life. Why would we want to burden our educators and the taxpayers who fund them with regulation from any source, legislative or administrative, federal or state or local, that does not add value to the end result?

Viewed from the perspective of either the student who receives the education or the taxpayer who funds it, regulation that does not add educational value is counterproductive because it adds to costs and detracts from focus on results. The leaders and faculty of a student-centered and learning-focused school should be free to focus their time on students and their efforts on learning.

In a time, now long past, when students who failed to learn could exit our educational system and still find employment that supported themselves, their families and their communities' tax base, our educational system could - and did - add layers of statutory, administrative and other regulatory conditions on top of the act of teaching and learning. In a time, now here and not going away, when students must learn and a community's quality of life (and tax base) depends on its citizens' education, those layers detract from public education's essential mission.

Some unnecessary regulation detracts simply by distracting - filling out and submitting required forms and reports; some detracts by restraining - following mandated process; and some detracts by inhibiting - making a decision that is required by regulation but is counter to student learning. Cumulatively, unnecessary regulation develops a compliance mentality - looking away from the students and into the system for comfort that how we do what we do meets approval, when a performance culture is what the world now requires - looking to the students and out to the world to ensure that they have the knowledge they need and can apply it effectively.

Not all requirements are unnecessary regulation. Standards done right add value by prescribing expected learning results; assessments done right add value by measuring actual learning results; financial management done right confirms how taxpayer resources are spent and to what effect; and reporting done right makes our schools' financial and learning results transparent to the public. Regulation that ensures student safety is similar.

Differential deregulation by incremental waiver - for example, want to change your schedule? Want to do something that is not standard under our regulations? Want to be a freeway school? - is not a substitute for freedom to focus on results. A waiver is but a different and more developed form of regulation - it still says to our educational leaders and teachers who actually face the students every day that they must accept the distraction or restraint or inhibition unless they are willing to ask permission to ignore it. Waiver of regulation that does not add educational value is a particularly perverse expectation. The compelling question is does the regulation add educational value? If it does, why waive it? If it does not, why have it?

Deregulation - eliminating regulatory mandate and process that does not directly add value to student learning - drives results. It gives those on the front lines, to whom we look to teach our students, the freedom to focus that matches the accountability for result. It gives them the flexibility to innovate. It replaces a compliance mentality with a performance mentality. It helps ensure precious taxpayer dollars flow directly to students and their learning.

Ask a school leader or teacher why they have committed their lives to their students. So they can comply with regulation or so they can teach? Ask a taxpayer why they have committed their hard-earned dollars to their schools. So they can comply with regulation or so they can educate students to be productive citizens and neighbors? Ask students why they are in school. So their leaders and teachers can comply with regulation or so they can learn?

**David Shane is  
Senior Advisor to Governor Mitch Daniels  
on Education and Employment**

---

## CONCLUSIONS AND RECOMMENDATIONS

What is the basis of the renewed education deregulation efforts? Why repeal statutes that have been deemed necessary previously in the legislative process and supported by education stakeholder groups? The policy perspectives shared by Frank Bush, David Shane and David Holt offer insights into these important questions. Certainly, as efforts move forward to repeal antiquated laws placed on schools, policymakers and education stakeholder groups must examine what impact such changes will have on student achievement while ensuring a safe, secure, and nurturing learning environment.

---

### Conclusion:

A near-unanimous number of superintendents believe, according to the recent CEEP survey, that school corporations, schools, and teachers are overregulated. Yet current state and federal waiver and flexibility provisions have been untapped or under-utilized for a variety of reasons.

---

### Recommendations:

- The Indiana Department of Education and State Board of Education should re-examine the benefit of federal flexibility provisions under NCLB and report at a public meeting on the advantages and disadvantages of receiving “State-Flex” designation and using the Transferability Authority extended to SEAs. Superintendents most frequently cited NCLB as the law that they would like to see modified or repealed. Any flexibility provision available should be thoroughly and periodically examined to identify potential regulatory relief and benefits that may accrue to school corporations.
- As Shane states, a waiver is but a different and more developed form of regulation. Superintendents expressed satisfaction that the array of waivers available to them is useful, but they expressed dissatisfaction that the waiver options are cumbersome and require significant paperwork. Administrators prefer the same broad statutory freedom and flexibility for their school corporations that are presently provided to charter schools. If nothing else, existing waiver options should be simplified and more easily accessible.
- If the regulatory environment is not significantly altered by the legislature in

2006 to provide greater local control, school corporations should re-examine the use of the provisions under Indiana Code 20-31-5-5, which allows for waivers of many rules and statutes applicable to schools. Virtually no school or school corporation utilized this flexibility when they first submitted their three-year Strategic and Continuous School Improvement and Achievement Plan to IDOE during the 2001-02 school year. Only 18 plans were submitted with waiver requests included in the latest round of school improvement plans submitted during the 2004-05 school year.

- School corporation officials have expressed a willingness to reconsider their support for the charter schools as a tool to facilitate innovation, creativity, and local autonomy. When initially passed, public school administrators were strongly opposed to the creation of charter schools in Indiana. School corporation participation in this education reform would provide a more complete picture of the capacity of charter schools to provide students with appropriate and innovative educational opportunities and choices. As the charter school movement moves forward in Indiana, a thorough evaluation of the performance of charter schools is warranted. If nothing else, administrators would like the same statutory flexibility extended to school corporations that is presently provided to charter schools.

---

### Conclusion:

Superintendents indicate that deregulation is necessary to give them appropriate freedom and flexibility to meet state and federally-directed performance levels. Furthermore, unfunded or underfunded mandates were frequently cited as a barrier to fulfilling educational objectives.

---

### Recommendations:

- Policymakers should continue efforts, based on input and recommendations from IDOE, SBOE, and other education stakeholder groups, to repeal obsolete, antiquated statutes. In doing so, policymakers should weigh carefully how existing laws and the passage of new laws support improved student achievement and school improvement.
- Consideration must be given by policymakers as to how proposed laws fit within Indiana’s P-16 Plan for Improving Student Achievement developed by the Edu-

cation Roundtable and the K-12 State Aims adopted by the SBOE in 2001. Only proposed legislation and rules that align with these guiding principles and clearly support student achievement should be enacted by the Indiana General Assembly and SBOE, respectively. Policymakers should forego non-essential proposals that place additional burdens or costs on school corporations.

- Policymakers should resist the temptation to place additional burdens via program or curricular mandates on the public education system (including both the SEA and LEAs) unless these provisions support student achievement and are fully funded. Superintendents clearly stated concerns that they are forced to implement too many laws without sufficient funding being appropriated by the legislature.
- Specific attention should be given to the collective bargaining statute and 511 IAC 7 concerning special education. NCLB aside, these two areas of law were the most frequently cited regulations that superintendents would like repealed or modified.
- The Division of Exceptional Learners for IDOE is presently in the rule-making process for Article 7 and is holding multiple meetings across the state to revise the special education rules. IDOE should ensure that broad notice is provided for these meetings and every opportunity should be afforded to teachers and administrators to voice their concerns about Article 7.
- If the legislature does not take meaningful action in 2006 to examine the collective bargaining statutes, the legislature should establish a blue ribbon taskforce to examine this area of education law. With the law largely unchanged for years, it is appropriate and timely to determine whether there are antiquated provisions that stand in the way of effective instruction, implementation of best practices, and employment of highly qualified educators. Consideration should be given, as one superintendent stated, to “empower leaders (administrators and principals) to assemble an engaged, motivated, and highly-performing teaching staff focused on student achievement.”
- Policymakers should keep in mind that all mandated activities, regardless of their financial cost or lack thereof, take time away from educators, carry unanticipated consequences, and add to the perception that schools are overregulated.

---

## END NOTES

1. K-12 Subcommittee. (2004). *Report to the Indiana Government Efficiency Commission*.
2. Schneider, M. B. (October 12, 2005). *ISTEP in spring a better bet now*. Indystar.com. Retrieved October 12, 2005 from <http://www.indystar.com>
3. U.S. Department of Education. (2005). *Programs covered by the Ed-Flex authority*. Retrieved September 21, 2005, from <http://www.ed.gov/print/programs/edflex/applicant.html>
4. U.S. Department of Education. (2005). *Ed-Flex Program*. Retrieved October 28, 2005, from <http://www.ed.gov/programs/edflex/index.html>
5. Jennings, J. (2002). Knocking on your door: With 'No Child Left Behind,' the federal government is taking a stronger role in your schools. *American School Board Journal*. Retrieved October 28, 2005, from <http://www.ctredpol.org/fededprograms/knocking-door/knockingonyourdooraug2002.pdf>
6. U.S. Department of Education. (2005). *Four pillars of NCLB*. Washington, DC. Retrieved October 31, 2005, from <http://www.ed.gov/nclb/overview/intro/4pillars.html>
7. U.S. Department of Education, Office of Elementary and Secondary Education. (2004). *Guidance on the transferability authority*. Retrieved on November 1, 2005, from <http://www.ed.gov/programs/transferability/finalsummary04.doc>
8. U.S. Department of Education, Office of Elementary and Secondary Education. (2004). *Guidance on the transferability authority*. Retrieved on November 1, 2005, from <http://www.ed.gov/programs/transferability/finalsummary04.doc>
9. Email correspondence with Tracy Brown of the Indiana Department of Education on October 27, 2005.
10. U.S. Department of Education, Office of Elementary and Secondary Education. (2005). *Secretary Spellings announces more workable, "common-sense" approach to implement No Child Left Behind law*. Retrieved November 1, 2005, from <http://www.ed.gov/news/pressreleases/2005/04/04072005.html>
11. U.S. Department of Education, Office of Elementary and Secondary Education. (2005). *Flexibility for states raising achievement for students of disabilities*. Retrieved November 18, 2005, from <http://www.ed.gov/policy/elsec/guid/raising/disab-factsheet.html>
12. Confused about 2%? (2005, Summer). ICAN/ISTAR Network News, 2, 1. Retrieved November 18, 2005, from <https://ican.doe.state.in.us/content/netnews/summer2005.pdf>
13. U.S. Department of Education, Office of School Support and Technology Programs. (2005). *State Flexibility Demonstration Program*. Retrieved November 3, 2005, from <http://www.ed.gov/programs/stateflex/index.html>
14. Correspondence with the Florida Department of Education, Office of the Commissioner on December 15, 2005.
15. U.S. Department of Education, Office of School Support and Technology Programs. (2005). *Local Flexibility Demonstration Program*. Retrieved November 3, 2005, from <http://www.ed.gov/programs/localflex/index.html>
16. P.L. 100-2001
17. [http://doe.state.in.us/charterschools/charter\\_listing.html](http://doe.state.in.us/charterschools/charter_listing.html)
18. Indiana Department of Education. (2005). *Indiana charter schools*. Retrieved September 14, 2005, from <http://www.doe.state.in.us/charterschools/charter-list.html>
19. Ziebarth, T., Celio, M.B., Lake, R.J., & Rainey, L. (2005). The charter schools landscape in 2005. In *Hopes, fears, and reality: A balanced look at American charter schools in 2005*. Seattle, WA: University of Washington.
20. Vanourek, G. (2005). *State of the charter movement 2005: Trends, issues, and indicators*. Retrieved November 18, 2005, from <http://www.ecs.org/html/offsite.asp?document=http%3A%2F%2Fwww%2Echarterschoolleadershipcouncil%2Eorg%2Fpdf%2Fsotm2005%2Epdf>
21. Charter School of the Dunes. (2002). School Brochure. Retrieved December 8, 2005, from [http://www.csotd.org/dynamic/downloads/link\\_11\\_2210.doc](http://www.csotd.org/dynamic/downloads/link_11_2210.doc)
22. Galileo Charter School. (2005). Retrieved December 8, 2005, from <http://www.galileo-charterschool.org/richmond.html>
23. Indiana Department of Education. (2004). School Data. Retrieved December 8, 2005, from <http://www.doe.state.in.us/asap/data.html>
24. City of Indianapolis, Office of the Mayor. (2005). *2005 accountability report on mayor-sponsored charter schools*. Retrieved December 2, 2005, from <http://www.indy.gov/NR/rdonlyres/efre66z743zjk7ofm64weqtaxaulcjmswbxwzr3cpg4jmm763gwg6sjplmmtk4iazxrz6zk2v5a4vqk6f5x7a3qoxitd/IndianaRptFINALsmall-websiteversion.pdf>
25. Hooper, K.L. (2005, November 21). Public Schools warm to charters. Indystar.com. Retrieved January 18, 2006, from <http://www.indystar.com/apps/pbcs.dll/article?AID=/20051121/NEWS02/511210380/1008>
26. Indiana School Laws and Rules. (2004-2005). IC 20-26-15, P.L.196-1995
27. Email correspondence, September 15, 2005
28. Wallyn, G. Director of Accreditation, Assistance, and Awards. Indiana Department of Education. Email correspondence, October 18, 2005.
29. Boughner, P. Freeway School liaison, Division of Accreditation, Assistance, and Awards, Indiana Department of Education. Email correspondence, November 10, 2005.
30. Rund, R. (2005). *Indiana school laws and rules 2005-2006*. 511 IAC 6-8-2.
31. Data obtained from Indiana Department of Education, Office of Program Development. (October, 2005). *Non-standard course/curriculum waivers*.
32. Rund, R. (2005). *Indiana school laws and rules 2005-2006*. IC 20-26-12-28.
33. Indiana Department of Education. (2005). *Textbook adoption reports*. Retrieved November 22, 2005, from <http://dew4.doe.state.in.us/WF/TEXTBOOK/r14.html>
34. Rund, R. (2005). *Indiana school laws and rules 2005-2006*. IC 20-31-5-5
35. Boughner, P. Freeway School liaison, Division of Accreditation, Assistance, and Awards, Indiana Department of Education. Email correspondence, January 17, 2006.
36. Rund, R. (2005). *Indiana school laws and rules 2005-2006*. IC 20-30-2-3, IC 20-30-2-4, IC 20-30-2-5
37. Indiana Department of Education. (2005). *2005 K-12 legislation*. Retrieved November 8, 2005, from <http://www.doe.state.in.us/leg-watch/2005/digest.html>
38. [http://doe.state.in.us/charterschools/charter\\_listing.html](http://doe.state.in.us/charterschools/charter_listing.html)
39. Education Commission of the States (2005). Recent state policies/activities. Retrieved September 1, 2005, from <http://www.ecs.org/ecs/ecscat.nsf/WebTopicView?OpenView&RestrictToCategory=Deregulation/Waivers>
40. <http://www.in.gov/legislative/bills/2006/PDF/IN/IN0323.1.pdf>
41. <http://www.in.gov/legislative/bills/2006/PDF/IN/IN1006.1.pdf>

---

## AUTHORS

### Terry E. Spradlin

(tspradli@indiana.edu) is Associate Director for Education Policy at the Center for Evaluation & Education Policy.

### Jonathan A. Plucker

(jplucker@indiana.edu) is Director of the Center for Evaluation & Education Policy.

### Kelly A. Prendergast

(kprender@indiana.edu) is a Research Assistant at the Center for Evaluation & Education Policy.

### Brittany L. Bell

(britbell@indiana.edu) was a Research Assistant at the Center for Evaluation & Education Policy during the fall 2005 semester.

---

## ACKNOWLEDGEMENTS

The author would like to thank the following people for their assistance: **Vincent Palozzi** and **Jason Zapf**, Research Assistants at the Center for Evaluation & Education Policy; **Paul Boughner**, **Tracy Brown**, **Gary Wallyn**, **Dorothy Winchester**, and **Jeff Zaring** from the Indiana Department of Education for their assistance in providing data for the various waiver programs presently in place in Indiana, and **John Ellis**, Executive Director of the Indiana Association of Public School Superintendents (IAPSS), for assisting in the administration of the Superintendents' Survey.

## ABOUT CEEP

The Center for Evaluation & Education Policy (CEEP) promotes and supports rigorous program evaluation and education policy research primarily, but not exclusively, for educational, human services, and non-profit organizations. CEEP takes a dynamic approach to evaluation and education policy research, using both quantitative and qualitative methodologies, including experimental designs.

As part of the Indiana University School of Education, CEEP represents a history of nearly 40 years of leading-edge evaluation and research experience. Recently, the Indiana Center for Evaluation and the Indiana Education Policy Center merged to form CEEP, combining both centers' rich experience and outstanding reputations of excellence. CEEP prides itself in being a client-focused organization that delivers the highest quality results by utilizing the most cost-efficient strategies possible.

More about the Center for Evaluation & Education Policy  
and our publications can be found at our web site:  
<http://ceep.indiana.edu>

---

Are Indiana's Public Schools in Need of Education Deregulation?  
Education Policy Briefs are published by the Center for Evaluation & Education Policy



Indiana University  
509 East Third Street  
Bloomington, IN 47401-3654  
812.855.4438

**CEEP**  
CENTER FOR EVALUATION  
& EDUCATION POLICY