



INDIANA STATE BOARD OF EDUCATION

To: Indiana State Board of Education Members
From: Timothy Schultz, General Counsel Indiana State Board of Education
Date: March 7, 2018
RE: Ambassador Christian School Waiver Request

I. Summary of the Applicable Law.

Pursuant to IC 20-51-4, certain nonpublic schools may qualify for choice scholarship funds. These qualifying schools are referred to as “eligible schools”.¹ However, eligible schools receiving choice scholarship funds that are placed in the lowest two grade designations for consecutive years will have their ability to receive choice scholarship funds suspended. Indiana Code 20-51-4-9(a) reads:

(a) Except as provided in subsection (b), the department shall enforce the following consequences for an eligible school that is nonpublic:

(1) If the school is placed in either of the lowest two (2) categories or designations under IC 20-31-8-3 for two (2) consecutive years, the department shall suspend choice scholarship payments for one (1) year for new students who would otherwise use a choice scholarship to attend the school.

(2) If the school is placed in either of the lowest two (2) categories or designations under IC 20-31-8-3 for three (3) consecutive years, the department shall suspend choice scholarship payments for new students who would otherwise use a choice scholarship to attend the school until the school is placed in the middle category or higher category or designation, for two (2) consecutive years.

(3) If the school is placed in the lowest category or designation under IC 20-31-8-3 for three (3) consecutive years, the department shall suspend choice scholarship payments for new students who would otherwise use a choice scholarship to attend the school until the school is placed in the middle category or higher category or designation, for three (3) consecutive years.

(4) Students who:

(A) are currently enrolled at a school described in subdivision (1), (2), or (3); and

(B) qualify for a choice scholarship for the upcoming school year; may continue to receive a choice scholarship at the school.

¹ IC 20-51-1-4.7

“Eligible school” refers to a public or nonpublic elementary school or high school that:

- (1) is located in Indiana;
- (2) requires an eligible choice scholarship student to pay tuition or transfer tuition to attend;
- (3) voluntarily agrees to enroll an eligible choice scholarship student;
- (4) is accredited by either the state board or a national or regional accreditation agency that is recognized by the state board;
- (5) administers the Indiana statewide testing for educational progress (ISTEP) program under IC 20-32-5;
- (6) is not a charter school or the school corporation in which an eligible choice scholarship student has legal settlement under IC 20-26-11; and
- (7) submits to the department only the student performance data required for a category designation under IC 20- 31-8-3.

Based on the language contained in IC 20-51-4-9(a), eligible schools are subject to three categories of consequences. Every category of consequences contains four stages: Earn, Learn, Turn, and Return (“ELTR”).

<p><u>Earn</u></p> <p>The years the school “earns” the grades that result in choice scholarship suspension.</p>	<p><u>Learn</u></p> <p>The years a school “learns” that it has been placed in Category 1-3 of consequences.</p> <p>Alternatively, when the school “learns” that it has demonstrated sufficient improvement to be taken out of a consequence category.</p>	<p><u>Turn (away)</u></p> <p>The years during which a school’s ability to receive new choice scholarship students is suspended. Thus, the school must “turn” away new students.</p>	<p><u>Return</u></p> <p>The year when new choice scholarship students may “return” to the school.</p>
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Category 1 of Consequences

Year 1 & Year 2	Year 3	Year 4	Year 5
Any combination of D's or F's.	School receives a C or better.	School receives a C or better.	School receives a C or better.
School “earns” Category 1 of Consequences.	School “learns” that it received a second consecutive D or F and that its ability to receive new choice scholarship students will be suspended in Year 4.	As the school received a combination of D and F for two consecutive years (Year 1 and Year 2), the school must “turn” away new choice scholarship students during Year 4. Additionally, the school will “learn” that it received a C in Year 3 and will be able to accept new students in Year 5.	As the school received a C or better in Year 3, new choice scholarship students may “return” to the school.

Category 2 of Consequences

Year 1 & Year 2	Year 3	Year 4 & Year 5	Year 6	Year 7
Any combination of D's or F's.		School receives a C or better.	School receives a C or better.	School receives a C or better.
School “earns” Category 1 of Consequences.	School “learns” that it received a second consecutive D or F and that its ability to receive new choice scholarship students will be suspended in Year 4.	School “learns” that it received a third consecutive D or F in Year 3 and is placed in Category 2 of Consequences. Therefore, the school must “turn” away new choice scholarship students during Year 4 and Year 5.	The school will “learn” that it received a second consecutive C or better during Year 5, and will be able to accept new students in Year 7.	New choice scholarship students may “return” to the school.

Category 3 of Consequences

Year 1 & Year 2	Year 3	Year 4, Year 5, Year 6	Year 7	Year 8
Three consecutive F's		School receives a C or better.	School receives a C or better.	School receives a C or better.
School <u>“earns”</u> Category 1 of Consequences.	School <u>“learns”</u> that it received a two consecutive F's and that its ability to receive new choice scholarship students will be suspended in Year 4.	School <u>“learns”</u> that it received a third consecutive F in Year 3 and is placed in Category 3 of Consequences. Therefore, the school must <u>“turn”</u> away new choice scholarship students during Year 4, Year 5, & Year 6.	The school will <u>“learns”</u> that it received a third consecutive C or better during Year 6, and will be able to accept new students in Year 8.	New choice scholarship students may <u>“return”</u> to the school.

II. Ability to Request a Waiver of Consequences.

The legislature enacted P.L. 251, which permits eligible schools to submit a request to the Indiana State Board of Education (“Board”) to waive or delay the consequences contained in IC 20-51-4-9(a). Specifically, P.L. 251 amended IC 20-51-4-9 to include the following provision:

(b) An eligible school may submit a request to the state board to waive or delay consequences imposed under subsection (a) for a particular school year. The state board may grant a request to an eligible school that requests a waiver or delay under this subsection **if the eligible school demonstrates that a majority of students in the eligible school demonstrated academic improvement during the preceding school year**. A waiver or delay granted to an eligible school under this subsection is for one (1) school year only. An eligible school must make an additional request under this subsection to the state board to receive further delay or waiver of consequences imposed under subsection (a).

Thus, IC 20-51-4-9(b) permits an eligible school to request the ability to avoid consequences and continue accepting new choice scholarship students, despite receiving consecutive D’s or F’s, if the school can show that a majority of the school’s students demonstrated “academic improvement during the preceding school year.” As of the date of this memo, the Board has not adopted a standard to determine if an eligible school has demonstrated academic improvement during the preceding year.

It is important to note that the newly added language states that any waiver granted by the Board will be for one year only. The receipt of a waiver does not reset a school’s grades. If a school is in a situation in which it needs to achieve three consecutive C’s or better, and it is granted a waiver, the school will need to continue asking for waivers until it has received the necessary consecutive grades to be taken out of the consequence categories contained in IC 20-51-4-9(a).

III. The Waiver Request.

Ambassador Christian Academy (“Ambassador”) has submitted a waiver request to the Board pursuant to IC 20-51-4-9(b), seeking a waiver for the 2018-19 school year.

A. Ambassador’s Waiver Request (for the 2016-17 school year).

Ambassador received a “C” for the 2013-14 and 2014-15 school years but received a “D” for the 2015-16 and 2016-17 school years. As Ambassador received a “D” for two consecutive years, its ability to receive choice scholarship funds for new students has been suspended until the school receives a “C” or higher grade. IC 20-51-4-9(a)(1).

Ambassador’s waiver request explains that during the 2016-17 school year it believes that a majority of its students exhibited academic improvement from the preceding school year. The waiver request explains that “the top 75 % of the students showed substantial growth in both ELA (95.2) and math (97.2) and the bottom 25% also showed substantial growth in ELA (125) and moderate growth in math (70). While I recognize there are multiple components that go into the school's overall grade, [Principal Graham-Harris] would be remised not to point out that the growth ACA students attained last year was very strong and moving in the right direction.”

The waiver request also notes that the “current principal has been in education for 18 years and holds a General Administrative Illinois License (K-12) and Illinois licensure in Elementary Education (K-9). Additionally, Mrs. Graham-Harris has obtained endorsements in the Growth Through Learning Teacher Evaluator Modules; Growth (1-5), Non-Growth (1-4) and Observation (1- 3) she is currently working to attain Indiana licensure. Mrs. Graham-Harris also spent the last 4 years working for the American Institutes for Research-Illinois Center for School Improvement supporting state identified priority and focus schools with all aspects of the continuous improvement process. Furthermore, 30% of the teaching staff has been replaced with Indiana certified teachers and the remaining 70% have been given one year to obtain Indiana licensure or provide proof of enrollment in a university accredited program that leads to an Indiana teaching license.” Further, Ambassador “has requested and is working with the Gary School Corporation to develop a partnership with Catapult Learning, where our Title I funds will be utilized to provide direct instruction, interventions and support to our lowest performing students by educators licensed and trained to implement effective strategies to improve student performance.”

Supplemental Data Submission: Ambassador has provided the attached supplemental information in response to questions posed by Board members during the February 14, 2018, business meeting.

If the Board determines that Ambassador has demonstrated that a majority of the school’s students demonstrated academic improvement during the preceding school year, the Board may grant the waiver request.