



# Indiana Department of Education

Dr. Katie Jenner, Secretary of Education

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## **Amendment for 23/24 School Year 1003 Flexibility Memo Requests Table of Contents**

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Dr. Katie Jenner, Secretary of Education

**To:** Indiana State Board of Education  
**From:** Office of School Support and Transformation  
**Date:** March 25, 2024  
**Subject:** Amendment to 23/24 School Year 1003 Flexibility Waivers

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## **I. Basis for Agency Review**

During the 2020 legislative session, the Indiana General Assembly enacted P.L. 92-2020, which, in relevant part, permits a school or group of schools to apply to the State Board of Education (Board) for flexibility and to waive compliance with various provisions outlined in Title 20 of the Indiana Code and Title 511 of the Indiana Administrative Code. The flexibility is provided in the form of a 1003 Flexibility Waiver.

## **II. Requests for 1003 Flexibility Waivers under IC 20-31-4.1-4**

To obtain a 1003 Flexibility Waiver, schools must submit an application that includes the following:<sup>1</sup>

- (1) A list of one or more provisions in Title 20 of the Indiana Code and/or Title 511 of the Indiana Administrative Code that the school or group of schools is requesting the Board to waive.
- (2) The specific goal(s) and/or outcome(s) the school or group of schools intends to achieve by waiving the provisions identified in the application.
- (3) An explanation of how the specific goal(s) and/or outcome(s) the school or group of schools intends to achieve are likely to be achieved by waiving compliance with the provisions identified in the application.
- (4) The performance benchmarks and data that will be used to determine whether the specific goal(s) and/or outcome(s) identified by the school or group of schools have been achieved.
- (5) A resolution adopted by the governing body of the school or group of schools authorizing the submission of the 1003 Flexibility Waiver application.

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<sup>1</sup> Ind. Code § 20-31-4.1-4(b).



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After reviewing a school's 1003 Flexibility Waiver request, the Board may grant the school a waiver if the Board determines (1) that the waiver request is related to a specific goal or outcome of the school or group of schools<sup>2</sup>, and (2) that granting the waiver will likely:<sup>3</sup>

- (1) Improve student performance and outcomes.
- (2) Offer the school or group of schools making the request flexibility in the administration of educational programs or improve the efficiency of school operations.
- (3) Promote innovative educational approaches to student learning, or
- (4) Advance the mission or purpose of the school or group of schools.

In other words, if the Board determines that a waiver request is not related to a specific goal or outcome of the school or group of schools, the request cannot be granted, and the waiver must be denied. Additionally, if the Board determines that granting a waiver is unlikely to improve student performance and outcomes, offer the school or group of schools making the request flexibility in the administration of educational programs or improve the efficiency of school operations, promote innovative educational approaches to student learning; or advance the mission or purpose of the school or group of schools, the request cannot be granted, and the waiver must be denied. Finally, IC 20-31-4.1-7 contains a list of provisions that may not be waived. Thus, a request to waive any of the provisions enumerated in IC 20-31-4.1-7 cannot be granted and must ultimately be denied.

### III. Justification for Amendment

The IDOE discovered a misinterpretation of the waiver request submitted by LEA's (local education agency) for IC 20-30-2-3 (School Year), whereas each school year must have 180 instructional days and IC 20-30-2-2.7 (Virtual Student Instructional Day), whereas a school may conduct not more than three (3) virtual student instructional days each school year that do not meet the requirements set forth by the Indiana Code. After identifying the issues with the number of instructional minutes being reported and additional clarifications from the LEA's, the IDOE is recommending an amendment to the flexibility waivers listed below.

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<sup>2</sup> Ind. Code § 20-31-4.1-5(a).

<sup>3</sup> Ind. Code § 20-31-4.1-5(b).



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## IV. Request(s) and Recommendation(s)

The Board has received 10 requests for a 1003 Flexibility Waiver from the following school corporations:

- |     |   |      |
|-----|---|------|
| (1) | MSD of Southwest Allen County Schools (0125)      | P. 5 |
| (2) | Noblesville Schools (3070)                        | P. 6 |
| (3) | Mississinewa Community School Corporation (2885)  | P. 6 |
| (4) | Mitchell Community Schools (5085)                 | P. 7 |
| (5) | MSD of Wabash County (8050) (Two requests)        | P. 7 |
| (6) | Oak Hill United School Corporation (5625)         | P. 8 |
| (7) | Randolph Eastern School Corporation (6835)        | P. 8 |
| (8) | South Madison Community School Corporation (5255) | P. 9 |
| (9) | West Noble School Corporation (6065)              | P. 9 |



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## School Year Requirement

The school corporation listed below is requesting flexibility to waive the statutory minimum requirements for a school year outlined in IC 20-30-2-3, which requires 180 instructional days. The application below seeks flexibility to offer staff professional development within the existing teacher contract and is committed to providing the minimum equivalent of in-person instructional minutes that would serve as the equivalent of 180 instructional days.

MSD of Wabash County (8050)- Please see waiver on p.8

## Virtual Student Instructional Day Requirement

The school corporation(s) listed below are requesting the flexibility to waive IC 20-30-2-2.7, to expand the number of virtual student instructional days their corporations may employ during the 2023-2024 school year.

### 1) MSD of Southwest Allen County Schools (0125)

- a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize MSD of Southwest Allen County Schools to count three (3) additional asynchronous virtual student instructional days for elementary grades and six (6) additional asynchronous virtual student instructional days for secondary grades.</p>	<p>MSD of Southwest Allen County Schools is a performance-qualified school district and is therefore not required to provide 180 student instructional days.</p> <p>Allow three (3) additional and six (6) total asynchronous learning days to be counted towards the 180-day requirement in elementary school (K-8).</p> <p>Allow four (4) additional and seven (7) total asynchronous learning days to be counted towards the 180-day requirement in secondary grades (9-12).</p> <p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## 2) Noblesville Schools (3070)

### a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Noblesville Schools to count two (2) additional asynchronous virtual student instructional days for a total of five (5) additional asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>

## 3) Mississinewa Community School Corporation (2885)

### a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Mississinewa Community School Corporation to count three (3) additional asynchronous virtual student instructional days for a total of six (6) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## 4) Mitchell Community Schools (5085)

### a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Mitchell Community Schools to count four (4) additional asynchronous virtual student instructional days for a total of seven (7) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"><li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000 minutes)</li><li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li></ul>



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## 5) MSD of Wabash County (8050)

- a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)
- b. IC 20-30-2-3 (School Year) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize MSD of Wabash County Schools to count three (3) additional asynchronous virtual student instructional days for elementary and secondary grades to conduct professional development.</p> <p>Authorize MSD of Wabash County Schools to count student instructional minutes for no more than five (5) additional asynchronous virtual student instructional days for no more than eight (8) asynchronous virtual student instructional days for the school year.</p>	<p>MSD of Wabash County Schools shall conduct three (3) full days of professional development in lieu of the reduced number of student instructional days.</p> <p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>





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## 6) Oak Hill United School Corporation (5625)

- a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Oak Hill United School Corporation to count four (4) additional asynchronous virtual student instructional days for a total of seven (7) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000)</li> <li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>

## 7) Randolph Eastern School Corporation (6835)

- a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Randolph Eastern School Corporation to count six (6) additional asynchronous virtual student instructional days for a total of nine (9) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000)</li> <li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## 8) South Madison Community School Corporation (5255)

a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize South Madison Community School Corporation to count two (2) additional asynchronous virtual student instructional days for elementary grades for a total of five (5) and two (2) additional asynchronous virtual student instructional days for secondary grades for a total of five (5) asynchronous virtual student instructional days.</p>	<p>South Madison Community Schools shall conduct no more than two (2) full days of staff professional development to utilize the additional authorized virtual instructional days.</p> <p>South Madison Community Schools shall conduct, prior to considering virtual instruction due to an emergency or inclement weather, the following amount of in-person instructional minutes:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000)</li> <li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>

## 9) West Noble School Corporation (6065)

a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize West Noble School Corporation to count four (4) additional asynchronous virtual student instructional days for a total of seven (7) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day.</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive 54,000 minutes of in-person instruction (statutory minimum is 54,000)</li> <li>- Grades 7-12: Students will receive 64,800 minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## Appendix A: Redlined Version

### 1) MSD of Southwest Allen County Schools (0125)

#### a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize MSD of Southwest Allen County Schools to count three (3) additional asynchronous virtual student instructional days for elementary grades and six (6) additional asynchronous virtual student instructional days for secondary grades.</p>	<p>MSD of Southwest Allen County Schools is a performance-qualified school district and is therefore not required to provide 180 student instructional days.</p> <p>Allow three (3) additional and six (6) total asynchronous learning days to be counted towards the 180-day requirement in elementary school (K-8).</p> <p>Allow four (4) additional and seven (7) total asynchronous learning days to be counted towards the 180-day requirement in secondary grades (9-12).</p> <p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive <b>54,000</b> <del>62,850</del> minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades 7-12: Students will receive <b>64,800</b> <del>67,455</del> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## 2) Noblesville Schools (3070)

### a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Noblesville Schools to count two (2) additional asynchronous virtual student instructional days for a total of five (5) additional asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades <del>1-6</del> <del>K-5</del>: Students will receive <del>54,000</del> <del>56,550</del> minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades 7-12: Students will receive <del>64,800</del> <del>67,050</del> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>

## 3) Mississinewa Community School Corporation (2885)

### a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Mississinewa Community School Corporation to count three (3) additional asynchronous virtual student instructional days for a total of six (6) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades <del>1-6</del> <del>K-5</del>: Students will receive <del>54,000</del> <del>64,800</del> minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades <del>7-12</del> <del>6-12</del>: Students will receive <del>64,800</del> <del>70,200</del> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## 4) Mitchell Community Schools (5085)

### a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Mitchell Community Schools to count four (4) additional asynchronous virtual student instructional days for a total of seven (7) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades <del>1-6</del> <del>K-5</del>: Students will receive <b>54,000</b> <del>64,000</del> minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades <del>7-12</del> <del>6-12</del>: Students will receive <b>64,800</b> <del>72,900</del> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## 5) MSD of Wabash County (8050)

- a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)
- b. IC 20-30-2-3 (School Year) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize MSD of Wabash County Schools to count three (3) additional asynchronous virtual student instructional days for elementary and secondary grades to conduct professional development.</p> <p>Authorize MSD of Wabash County Schools to count student instructional minutes for no more than five (5) additional asynchronous virtual student instructional days for no more than eight (8) asynchronous virtual student instructional days for the school year.</p>	<p>MSD of Wabash County Schools shall conduct three (3) full days of professional development in lieu of the reduced number of student instructional days.</p> <p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive <b>54,000</b> <del>62,100</del> minutes of in-person instruction (statutory minimum is 54,000 minutes)</li> <li>- Grades 7-12: Students will receive <b>64,800</b> <del>68,675</del> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## 6) Oak Hill United School Corporation (5625)

a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Oak Hill United School Corporation to count four (4) additional asynchronous virtual student instructional days for a total of seven (7) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive <del>72,180</del> <b>54,000</b> minutes of in-person instruction (statutory minimum is 54,000)</li> <li>- Grades 7-12: Students will receive <del>74,880</del> <b>64,800</b> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>

## 7) Randolph Eastern School Corporation (6835)

a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize Randolph Eastern School Corporation to count six (6) additional asynchronous virtual student instructional days for a total of nine (9) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive <del>63,900</del> <b>54,000</b> minutes of in-person instruction (statutory minimum is 54,000)</li> <li>- Grades 7-12: Students will receive <del>67,500</del> <b>64,800</b> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>



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## 8) South Madison Community School Corporation (5255)

a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize South Madison Community School Corporation to count two (2) additional asynchronous virtual student instructional days for elementary grades for a total of five (5) and two (2) additional asynchronous virtual student instructional days for secondary grades for a total of five (5) asynchronous virtual student instructional days.</p>	<p>South Madison Community Schools shall conduct no more than two (2) full days of staff professional development to utilize the additional authorized virtual instructional days.</p> <p>South Madison Community Schools shall conduct, prior to considering virtual instruction due to an emergency or inclement weather, the following amount of in-person instructional minutes:</p> <ul style="list-style-type: none"> <li>- Grades 1-6: Students will receive <b>54,000</b> <del>64,970</del> minutes of in-person instruction (statutory minimum is 54,000)</li> <li>- Grades 7-12: Students will receive <b>64,800</b> <del>68,675</del> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>

## 9) West Noble School Corporation (6065)

a. IC 20-30-2-2.7 (Virtual Student Instructional Day) – **Grant** (2023-2024 school year only)

Dispensations	Commitments/Justification
<p>IC 20-30-2-2.7 (Virtual Instructional Day) Limit to 3 virtual student instructional days.</p> <p>Authorize West Noble School Corporation to count four (4) additional asynchronous virtual student instructional days for a total of seven (7) asynchronous virtual student instructional days.</p>	<p>The combined total number of in-person instructional minutes across all grade levels will meet the equivalent of the statutory requirement of 180 days, times the minimum length of an instructional day.</p> <ul style="list-style-type: none"> <li>- Grades <del>1-6</del> <del>K-4</del>: Students will receive <b>54,000</b> <del>56,700</del> minutes of in-person instruction (statutory minimum is 54,000)</li> <li>- Grades <del>7-12</del> <del>6-12</del>: Students will receive <b>64,800</b> <del>63,900</del> minutes of in-person instruction (statutory minimum is 64,800)</li> </ul>