INDIANA STATE BOARD OF EDUCATION

To: Indiana State Board of Education
From: Chad E. Ranney – General Counsel
Date: March 3, 2021
RE: **1003 Flexibility Waiver Requests**

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 set forth in Title 20 of the Indiana Code and Title 511 of the Indiana Administrative Code. The flexibility available under P.L.92-2020 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:

(1) A list of one or more provisions in Title 20 of the Indiana Code and/or Title 511 of the Indiana Administrative Code the school or group of schools is requesting the Board 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.

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, and (2) that granting the waiver will likely:

(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 be denied.

III.   Request(s) and Recommendation(s)

The Board has received two (2) requests for a 1003 Flexibility Waiver from the following school corporation:

(1) Pike County School Corporation (6445)
(2) MSD North Posey Co Schools (6600)

Copies of the requests are attached for the Board's consideration.

After reviewing the requests, it has been determined that the corporations' applications include the statutorily required information and are eligible for consideration by the Board. With respect to the statutory and regulatory provisions included in the requests, staff recommends the following:

(1) Pike County School Corporation (6445)
      a. IC 20-20-8 (School Corporation Annual Performance Report) – **Grant**
      b. IC 20-30-2-3 (School Year) – **Grant**

(2) MSD North Posey Co Schools (6600)
      a. IC 20-20-8 (School Corporation Annual Performance Report) – **Grant**
      b. IC 20-30-2-3 (School Year) – **Grant**