



# INDIANA STATE BOARD OF EDUCATION

**To:** Indiana State Board of Education  
**From:** Chad E. Ranney, General Counsel – Indiana State Board of Education  
**Date:** May 13, 2020  
**RE:** **Recommended Decisions – 2018-2019 A-F Appeals**

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**Recommendation: Approve the attached Recommended Decisions and corresponding 2018-2019 accountability category placements.**

511 IAC 6.2-10-11 explains:

Sec. 11. A school or school corporation may petition for review of its accountability category placement based on objective factors the school or school corporation considers relevant because the annual assessment data do not accurately reflect school performance, growth, or multiple measures, as applicable. Objective factors include significant demographic changes in the student population, errors in data, or other significant issues including, but not limited to, errors in the application of this rule to determine an accountability category.

The attached Recommended Decisions provided to the Indiana State Board of Education (“Board”) for consideration have been drafted and issued by a hearing officer pursuant to 511 IAC 6.2-10-11. None of the schools listed below have filed an Objection to the Recommended Decision with Board staff. After reviewing the decisions, Board staff recommends the Board approve the attached Recommended Decisions and corresponding 2018-2019 accountability category placements.<sup>1</sup>

1. Clinton Central Jr.-Sr. High School – B
2. East Chicago Central High School – B
3. Frankfort High School – C
4. Jimtown High School – B
5. LaVille Jr.-Sr. High School – B
6. The Independence Academy – “Null”
7. Wawasee High School – B
8. West Side Leadership Academy – B

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<sup>1</sup> The final categories or designations of school performance listed in this memo reflect the calculations and method for placing schools outlined in P.L.2-2020.

**BEFORE THE INDIANA  
STATE BOARD OF EDUCATION**

IN THE MATTER OF:	)	
	)	
CLINTON CENTRAL JR.-SR. HIGH SCHOOL,	)	APPEAL PURSUANT TO
SCHOOL (SCHOOL #0957),	)	511 IAC 6.2-10-11
	)	
PETITIONER	)	
	)	

**COMBINED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND  
RECOMMENDED DECISION**

**I. Reason for Appeal**

Clinton Central Jr.-Sr. High School appeals its 2018-2019 category placement of a \_\_\_\_\_ asserting that one (1) student should be excluded from the accountability calculation under Indiana Code Section 20-31-8-4.6 as at-risk students who receive dropout recovery education services at The Crossing School of Business & Entrepreneurship (“The Crossing”).

**II. Findings of Fact and Conclusions of Law**

1. Clinton Central Jr.-Sr. High School is a public school located in Michigantown, Indiana, that is a part of the Clinton Central School Corporation.
2. Clinton Central Jr.-Sr. High School educates students in grades 7 through 12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (Board) shall annually place each school in a category or designation of school performance based on the metrics outlines in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) and (3), the accountability category of Clinton Central Jr.-Sr. High School shall be based on the performance, growth, and multiple

measures domains. The performance and growth shall each be 20% of the overall grade and the multiple measures domain shall equate to 60% of the overall grade.

5. All domains are calculated using the results of “eligible students” as defined by 511 IAC 6.2-10-1(15) including any student who:

(A) was enrolled at the school for at least one hundred sixty-two (162) days in the accountable year; (B) was tested on the mandatory statewide annual assessment, or the end of course assessment; (C) was not a limited English proficient student who has been enrolled in schools in the United States for less than twelve (12) months; and (D) obtained a valid result.

6. On November 1, 2019, Clinton Central Jr.-Sr. High School received an accountability category placement of \_\_\_\_\_ for the 2018-2019 school year (Attachment III).

7. On February 21, 2020, Clinton Central Jr.-Sr. High School timely appealed the Board’s 2018-2019 Accountability Calculation stating:

Clinton Central School Corporation is appealing the Clinton Central High School embargoed letter grade for 2019. We are appealing the grade based on legislation passed (IC 30-31-8-4.6) regarding schools partnering with Crossing School of Business and Entrepreneurship. There is one student that is negatively affecting our letter grade after receiving services from the Crossing during 2018-19 school year. This student was reported on the Clinton Central Graduate report for 2018-19 submitted to the IDOE.

(Attachment II).

8. Clinton Central Jr.-Sr. High School provided a contract for the 2018-2019 school year with The Crossing demonstrating that one (1) student was enrolled in dropout recovery educational services.

9. Indiana Code Section 20-31-8-4.6 provides:

If a school corporation or a charter school enters into an agreement with an eligible school (as defined in [IC 20-51-1-4.7](#)) to provide dropout recovery educational services for an at-risk student who is enrolled at a public school, the

student may not be included in the calculation of the public school's category or designation of school performance.

**10.** 511 IAC 6.2-11-2 provides:

For purposes of calculating the state category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude the accountability indicators of the at-risk student if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**11.** Additionally, 511 IAC 6.2-11-3 provides:

For purposes of calculating a school's category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude at-risk students from the school's cohort, as defined in IC 20-26-13-2, and graduation rate, calculated pursuant to IC 20-26-13, if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**12.** Clinton Central Jr.-Sr. High School provided one student it believes should be excluded under IC 20-31-8-4.6 and 511 IAC 6.2-11.5 The Department reviewed the official real-time enrollment records and confirmed that the student attended The Crossing, an eligible school, for more than one-half (1/2) of the school year. (Appeal Response).

**13.** While reviewing the student submitted by Clinton Central Jr.-Sr. High School for exclusion under IC 20- 31-8-4.6 and 511 IAC 6.2-11, the Department confirmed that the student was not included in the 2018-2019 A-F state accountability calculations because the student was not part of the 2018 cohort. (Appeal Response).

**14.** Students are identified for inclusion in the graduation rate calculation based on whether they are part of a cohort at the school. A cohort is defined under Ind. Code § 20-26-13-

2 as a class of students who attend the same high school, and are first considered to have entered grade 9 in the same year, or those who have later enrolled and have the same expected graduation year as other students in the cohort. Students who entered the cohort at Clinton Central Jr.-Sr. High School after their 9<sup>th</sup> grade year, but will graduate at the same time as the cohort was expected to graduate, are included in the graduation calculation. *See also* 511 IAC 6.2-10-1(22), defining “graduation cohort.”

15. The graduation cohort used is the “most recent finalized cohort” under 511 IAC 6.2-10-6(c)(1). The most recently finalized graduation cohort at the time that the 2018-2019 A to F calculations were complete was the 2018 graduation cohort because students have until September 30 to graduate.

### **III. Recommended Decision**

The Board’s Accountability Category calculation for Clinton Central Jr.-Sr. High School was correct. The student in question was part of the 2019 cohort. As such, the student was not included in the school’s accountability determinations for the 2018-2019 school year, and did not impact the school’s 2018-2019 state accountability grade.

DATE: April 16, 2020

/s/ Zanna Claire Dyer, Hearing Officer

### **NOTICE OF APPEAL RIGHT**

Petitioner may file objections to the Hearing Officer’s Recommended Decision but must do so no later than ten (10) calendar days from the date the Petitioner receives the Recommended Decision. Any objections must be in writing and must state the legal basis for the objection.

Written objections are to be submitted to the Indiana State Board of Education as follows:

**ATTN:** Chad Ranney General Counsel  
[CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

**Certificate of Service**

I certify that on April 16, 2020, I served the foregoing Recommended Decision on the following persons at the email addresses shown below:

Kimberly Deck  
[kimberly.deck@clinton.k12.in.us](mailto:kimberly.deck@clinton.k12.in.us)

Chad Ranney, General Counsel  
Indiana State Board of Education  
Email: [CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

Maggie Paino, Director of Accountability  
Indiana Department of Education  
Email: [mpaino@doe.in.gov](mailto:mpaino@doe.in.gov)

/s/ Zanna Claire Dyer, Hearing Officer

**BEFORE THE INDIANA  
STATE BOARD OF EDUCATION**

IN THE MATTER OF:	)	
	)	
EAST CHICAGO CENTRAL HIGH SCHOOL,	)	APPEAL PURSUANT TO
SCHOOL (SCHOOL #3924),	)	511 IAC 6.2-10-11
	)	
	)	
PETITIONER	)	
	)	

**COMBINED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND  
RECOMMENDED DECISION**

**I. Reason for Appeal**

East Chicago Central High School appeals its 2018-2019 category placement of a asserting that twenty-nine (29) students should be excluded from the accountability calculation under Indiana Code Section 20-31-8-4.6 as at-risk students who receive dropout recovery education services at The Crossing School of Business & Entrepreneurship (“The Crossing”).

**II. Findings of Fact and Conclusions of Law**

1. East Chicago Central High School is a public school located in East Chicago, Indiana, that is a part of the School City of East Chicago.
2. East Chicago Central High School educates students in grades 9 through 12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (Board) shall annually place each school in a category or designation of school performance based on the metrics outlines in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) and (3), the accountability category of East Chicago Central High School shall be based on the performance, growth, and multiple measures

domains. The performance and growth shall each be 20% of the overall grade and the multiple measures domain shall equate to 60% of the overall grade.

5. All domains are calculated using the results of “eligible students” as defined by 511 IAC 6.2-10-1(15) including any student who:

(A) was enrolled at the school for at least one hundred sixty-two (162) days in the accountable year; (B) was tested on the mandatory statewide annual assessment, or the end of course assessment; (C) was not a limited English proficient student who has been enrolled in schools in the United States for less than twelve (12) months; and (D) obtained a valid result.

6. On November 1, 2019, East Chicago Central High School received an accountability category placement of \_\_\_\_\_ for the 2018-2019 school year (Attachment III).

7. On February 24, 2020, East Chicago Central High School timely appealed the Board’s 2018-2019 Accountability Calculation stating:

- a. HEA 1001 (2017) – Legislation was passed to ensure the letter grades of schools partnering with the Crossings would not negatively affected (*sic*) if students did not perform in categories related to the letter grade of the LEA or Charter School.
- b. Code of Reference IC 20-31-8-4.6
  - i. Certain at-risk students not included in the calculation of school performance.
  - ii. Sec. 4.6 (a) If a school corporation or a charter school enters into an agreement with an eligible school (as defined in IC 20-51-1-4.7) to provide dropout recover educational services for an at-risk student who is enrolled at a public school, the student may not be included in the calculation of the public school’s category or designation of school performance.
  - iii. (b) The state board shall adopt rules under IC 4-22-2 and any guidelines necessary to carry out this section.
  - iv. As added by P.L.217-2017, SEC. 105.
- c. East Chicago Central High School and the Crossings are partners; therefore, we are seeking the removal of students who negatively impact our school grade for the 2018-2019 school year.

(Attachment II).

**8.** East Chicago Central High School provided a contract for the 2018-2019 school year with The Crossing demonstrating that students were enrolled in dropout recovery educational services.

**9.** Indiana Code Section 20-31-8-4.6 provides:

(a) If a school corporation or a charter school enters into an agreement with an eligible school (as defined in [IC 20-51-1-4.7](#)) to provide dropout recovery educational services for an at-risk student who is enrolled at a public school, the student may not be included in the calculation of the public school's category or designation of school performance.

**10.** 511 IAC 6.2-11-2 provides:

For purposes of calculating the state category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude the accountability indicators of the at-risk student if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**11.** Additionally, 511 IAC 6.2-11-3 provides:

For purposes of calculating a school's category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude at-risk students from the school's cohort, as defined in IC 20-26-13-2, and graduation rate, calculated pursuant to IC 20-26-13, if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**12.** East Chicago Central High School provided twenty-nine (29) students it believes should be excluded under IC 20-31-8-4.6 and 511 IAC 6.2-11.5

**13.** In reviewing the list of students submitted by East Chicago Central High School for exclusion under IC 20-31-8-4.6 and 511 IAC 6.2-11, the Department confirmed that seven (7) of the students were not included in the 2018-2019 A-F state accountability calculations

because they did not have valid test results, disqualifying the students from being an “eligible student” under 511 IAC 6.2-10-1(15). All of these students were included in the participation rate calculation because they were enrolled during the test window. Six (6) of these students negatively impacted the participation rate as non-testers, and five (5) of these six students were enrolled in the eligible school and attended the eligible school for more than one-half (1/2) of the school year. (Appeal Response).

**14.** The Department reviewed the official real-time enrollment records for the remaining twenty-two (22) students.<sup>1</sup> Eighteen (18) were enrolled at the eligible school for more than one-half (1/2) of the school year, but twelve (12) attended<sup>2</sup> the eligible school for more than one-half (1/2) of the school year. (Appeal Response).

**15.** Therefore, twelve (12) students were included in the 2018-2019 category placement despite being an “at-risk” student and eligible for exclusion pursuant to IC 20-31-8-4.6.

**16.** East Chicago Central High School’s new 2018-2019 category placement should be a \_\_\_\_\_ based on the following calculations:

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<sup>1</sup>The Department found that four (4) students were neither enrolled nor attended The Crossing.

<sup>2</sup> In order to be excluded, the at-risk students must *attend* the eligible school for more than one-half (1/2) of the school year. See 511 IAC 6.2-11-2(2).

### **III. Recommended Decision**

The Board's Accountability Category calculation for East Chicago Central High School was incorrect. Indiana Code Section 20-31-8-4.6 applies to the 2017-2018 school year and is clear and unambiguous. Twelve (12) students should not have been included in the accountability calculation due to the students' enrollment and attendance at The Crossing. East Chicago Central High School should have received .

DATE: April 16, 2020

*/s/ Zanna Claire Dyer, Hearing Officer*

### **NOTICE OF APPEAL RIGHT**

Petitioner may file objections to the Hearing Officer's Recommended Decision but must do so no later than ten (10) calendar days from the date the Petitioner receives the Recommended Decision. Any objections must be in writing and must state the legal basis for the objection.

Written objections are to be submitted to the Indiana State Board of Education as follows:

**ATTN: Chad Ranney General Counsel**  
[CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

**Certificate of Service**

I certify that on April 16, 2020, I served the foregoing Recommended Decision on the following persons at the email addresses shown below:

Edward Garcia  
[egarcia@ecps.org](mailto:egarcia@ecps.org)

Chad Ranney, General Counsel  
Indiana State Board of Education  
Email: [CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

Maggie Paino, Director of Accountability  
Indiana Department of Education  
Email: [mpaino@doe.in.gov](mailto:mpaino@doe.in.gov)

/s/ Zanna Claire Dyer, Hearing Officer

**BEFORE THE INDIANA  
STATE BOARD OF EDUCATION**

IN THE MATTER OF:	)	
	)	
FRANKFORT HIGH SCHOOL,	)	APPEAL PURSUANT TO
SCHOOL (SCHOOL #0997),	)	511 IAC 6.2-10-11
	)	
PETITIONER	)	
	)	

**COMBINED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND  
RECOMMENDED DECISION**

**I. Reason for Appeal**

Frankfort High School appeals its 2018-2019 category placement of asserting that eleven (11) students should be excluded from the accountability calculation under Indiana Code Section 20-31-8-4.6 as at-risk students who receive dropout recovery education services at The Crossing School of Business & Entrepreneurship (“The Crossing”).

**II. Findings of Fact and Conclusions of Law**

1. Frankfort High School is a public school located in Frankfort, Indiana, that is a part of the Community Schools of Frankfort.
2. Frankfort High School educates students in grades 9 through 12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (Board) shall annually place each school in a category or designation of school performance based on the metrics outlines in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) and (3), the accountability category of Frankfort High School shall be based on the performance, growth, and multiple measures domains. The performance and growth shall each be 20% of the overall grade and the multiple measures domain shall equate to 60% of the overall grade.

5. All domains are calculated using the results of “eligible students” as defined by 511 IAC 6.2-10-1(15) including any student who:

(A) was enrolled at the school for at least one hundred sixty-two (162) days in the accountable year; (B) was tested on the mandatory statewide annual assessment, or the end of course assessment; (C) was not a limited English proficient student who has been enrolled in schools in the United States for less than twelve (12) months; and (D) obtained a valid result.

6. On November 1, 2019, Frankfort High School received an accountability category placement of \_\_\_\_\_ for the 2018-2019 school year (Attachment III).

7. On February 24, 2020, Frankfort High School timely appealed the Board’s 2018-2019 Accountability Calculation stating:

Attached you will find data regarding Frankfort High School students who attended The Crossing in Frankfort, Indiana. In HEA1001 (2017) legislation was passed to ensure the letter grades of schools partnering with the Crossing would not be negatively affected if students did not perform in categories related to the letter grade of the LEA or Charter School. While the students listed in the attached document graduated, they earned a General diploma rather than a CORE 40. This negatively impacted FHS's CORE 40 graduation rate and should therefore be reviewed.

(Attachment II).

8. Frankfort High School provided a contract for the 2018-2019 school year with The Crossing demonstrating that eleven (11) students were enrolled in dropout recovery educational services.

9. Indiana Code Section 20-31-8-4.6 provides:

If a school corporation or a charter school enters into an agreement with an eligible school (as defined in [IC 20-51-1-4.7](#)) to provide dropout recovery educational services for an at-risk student who is enrolled at a public school, the student may not be included in the calculation of the public school’s category or designation of school performance.

10. 511 IAC 6.2-11-2 provides:

For purposes of calculating the state category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude the accountability indicators of the at-risk student if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**11.** Additionally, 511 IAC 6.2-11-3 provides:

For purposes of calculating a school's category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude at-risk students from the school's cohort, as defined in IC 20-26-13-2, and graduation rate, calculated pursuant to IC 20-26-13, if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**12.** Frankfort High School provided eleven (11) students it believes should be excluded under IC 20-31-8-4.6 and 511 IAC 6.2-11. (Appeal Response).

**13.** In reviewing the list of students submitted by Frankfort High School for exclusion under IC 20-31-8-4.6 and 511 IAC 6.2-11, the Department confirmed that all students are part of the 2019 cohort. (Appeal Response).

**14.** Students are identified for inclusion in the graduation rate calculation based on whether they are part of a cohort at the school. A cohort is defined under Ind. Code § 20-26-13-2 as a class of students who attend the same high school, and are first considered to have entered grade 9 in the same year, or those who have later enrolled and have the same expected graduation year as other students in the cohort. Students who entered the cohort at Frankfort High School after their 9<sup>th</sup> grade year, but will graduate at the same time as the cohort was expected to graduate, are included in the graduation calculation. *See also* 511 IAC 6.2-10-1(22), defining "graduation cohort."

15. The graduation cohort used is the “most recent finalized cohort” under 511 IAC 6.2-10-6(c)(1). The most recently finalized graduation cohort at the time that the 2018-2019 A to F calculations were complete was the 2018 graduation cohort because students have until September 30 to graduate.

### **III. Recommended Decision**

The Board’s Accountability Category calculation for Frankfort High School was correct. The eleven (11) students in question were part of the 2019 cohort. As such, the students were not included in the school’s accountability determinations for the 2018-2019 school year, and did not impact the school’s 2018-2019 state accountability grade.

DATE: April 16, 2020

/s/ Zanna Claire Dyer, Hearing Officer

### **NOTICE OF APPEAL RIGHT**

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Written objections are to be submitted to the Indiana State Board of Education as follows:

**ATTN:** Chad Ranney General Counsel  
[CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

**Certificate of Service**

I certify that on April 16, 2020, I served the foregoing Recommended Decision on the following persons at the email addresses shown below:

Cindy Long  
[longci@frankfort.k12.in.us](mailto:longci@frankfort.k12.in.us)

Chad Ranney, General Counsel  
Indiana State Board of Education  
Email: [CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

Maggie Paino, Director of Accountability  
Indiana Department of Education  
Email: [mpaino@doe.in.gov](mailto:mpaino@doe.in.gov)

/s/ Zanna Claire Dyer, Hearing Officer

**BEFORE THE INDIANA  
STATE BOARD OF EDUCATION**

IN THE MATTER OF:	)	
	)	APPEAL PURSUANT TO
JIMTOWN HIGH SCHOOL,	)	511 IAC 6.2-10-11
SCHOOL (SCHOOL #1701),	)	
	)	
PETITIONER	)	
	)	

**COMBINED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND  
RECOMMENDED DECISION**

**I. Reason for Appeal**

Jimtown High School appeals its 2018-2019 category placement of asserting that: (1) there were significant demographic changes in student population; and (2) eight (8) students should be excluded from the accountability calculation under Indiana Code Section 20-31-8-4.6 as at-risk students who receive dropout recovery education services at The Crossing School of Business & Entrepreneurship (“The Crossing”).

**II. Findings of Fact and Conclusions of Law**

1. Jimtown High School is a public school located in Elkhart, Indiana, that is a part of the Baugo Community School District.
2. Jimtown High School educates students in grades 9 through 12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (Board) shall annually place each school in a category or designation of school performance based on the metrics outlines in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) and (3), the accountability category of Jimtown High School shall be based on the performance, growth, and multiple measures

domains. The performance and growth shall each be 20% of the overall grade and the multiple measures domain shall equate to 60% of the overall grade.

5. All domains are calculated using the results of “eligible students” as defined by 511 IAC 6.2-10-1(15) including any student who:

(A) was enrolled at the school for at least one hundred sixty-two (162) days in the accountable year; (B) was tested on the mandatory statewide annual assessment, or the end of course assessment; (C) was not a limited English proficient student who has been enrolled in schools in the United States for less than twelve (12) months; and (D) obtained a valid result.

6. On November 1, 2019, Jimtown High School received an accountability category placement of \_\_\_\_\_ for the 2018-2019 school year (Attachment III).

7. On February 24, 2020, Jimtown High School timely appealed the Board’s 2018-2019 Accountability Calculation stating:

Baugo Community School District is appealing our 2018-2019 A-F grade category pursuant to 511 IAC 6.2-10-11, where a school or corporation may appeal its accountability category placement based on relevant objective factors that demonstrate annual assessment data do not accurately reflect the school’s performance. Objective factors include errors in data, significant demographic changes in student population, or other significant changes including, but not limited to, errors in the application of 511 IAC 6.2-10.

In addition, we cite IC 20-31-8-4.6 in order to exclude at-risk student data from our A-F letter grade, since they have attended an alternative program at *the Crossing* for more than 90 days...

(Attachment IV).

8. While not a factor within the school’s control, the significant demographic changes in student population has no effect on the accountability calculation. Indiana’s accountability system found in 511 IAC 6.2-10 *et seq.* does not incorporate any metric of uncontrollable shifts in culture. Thus, all students who met the definition of an eligible student were included in the school’s accountability calculation, regardless of circumstances.

**9.** Jimtown High School provided a contract for the 2018-2019 school year with The Crossing demonstrating that eight (8) students were enrolled in dropout recovery educational services.

**10.** Indiana Code Section 20-31-8-4.6 provides:

(a) If a school corporation or a charter school enters into an agreement with an eligible school (as defined in [IC 20-51-1-4.7](#)) to provide dropout recovery educational services for an at-risk student who is enrolled at a public school, the student may not be included in the calculation of the public school's category or designation of school performance.

**11.** 511 IAC 6.2-11-2 provides:

For purposes of calculating the state category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude the accountability indicators of the at-risk student if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**12.** Additionally, 511 IAC 6.2-11-3 provides:

For purposes of calculating a school's category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude at-risk students from the school's cohort, as defined in IC 20-26-13-2, and graduation rate, calculated pursuant to IC 20-26-13, if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**13.** Jimtown High School provided eight (8) students it believes should be excluded under IC 20-31-8-4.6 and 511 IAC 6.2-11.5. The Department reviewed the official real-time enrollment records for these eight (8) students and confirmed that all students attended The Crossing, an eligible school, for more than one-half (1/2) of the school year. (Appeal Response).

**14.** In reviewing the list of students submitted by Jimtown High School for exclusion under IC 20-31-8-4.6 and 511 IAC 6.2-11, the Department confirmed that only one (1) of the eight (8) students was included in the 2018-2019 A-F state accountability calculations. Six (6) of the students were not included in the 2018-2019 A-F state accountability calculations because they were either not enrolled in 10th grade during the 2018-2019 school year or a part of the 2018 graduating cohort. One (1) of the students was not included in the 2018-2019 A-F state accountability calculations even though this student was enrolled in the 10th grade because the student did not have valid test results, disqualifying the student from being an “eligible student” under 511 IAC 6.2-10-1(15). (Appeal Response).

**15.** Therefore, one (1) student was included in the 2018-2019 category placement despite being an “at-risk” student and eligible for exclusion pursuant to IC 20-31-8-4.6.

**16.** Jimtown High School’s new 2018-2019 category placement should be based on the following calculations:

### **III. Recommended Decision**

The Board's Accountability Category calculation for Jimtown High School was incorrect. Indiana Code Section 20-31-8-4.6 applies to the 2018-2019 school year and is clear and unambiguous. One (1) student should not have been included in the accountability calculation due to the student's enrollment in The Crossing. Jimtown High School should have received a

DATE: April 16, 2020

/s/ Zanna Claire Dyer, Hearing Officer

### **NOTICE OF APPEAL RIGHT**

Petitioner may file objections to the Hearing Officer's Recommended Decision but must do so no later than ten (10) calendar days from the date the Petitioner receives the Recommended Decision. Any objections must be in writing and must state the legal basis for the objection.

Written objections are to be submitted to the Indiana State Board of Education as follows:

**ATTN: Chad Ranney General Counsel**

[CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

**Certificate of Service**

I certify that on April 16, 2020, I served the foregoing Recommended Decision on the following persons at the email addresses shown below:

Byron Sanders  
[bsanders@baugo.org](mailto:bsanders@baugo.org)

Chad Ranney, General Counsel  
Indiana State Board of Education  
Email: [CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

Maggie Paino, Director of Accountability  
Indiana Department of Education  
Email: [mpaino@doe.in.gov](mailto:mpaino@doe.in.gov)

/s/ Zanna Claire Dyer, Hearing Officer

**BEFORE THE INDIANA  
STATE BOARD OF EDUCATION**

IN THE MATTER OF:	)	
	)	
LAVILLE JR.-SR. HIGH SCHOOL,	)	APPEAL PURSUANT TO
SCHOOL (SCHOOL #7399),	)	511 IAC 6.2-10-11
	)	
PETITIONER	)	
	)	

**COMBINED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND  
RECOMMENDED DECISION**

**I. Reason for Appeal**

LaVille Jr.-Sr. High School appeals its 2018-2019 category placement of asserting that two (2) students should be excluded from the accountability calculation under Indiana Code Section 20-31-8-4.6 as at-risk students who receive dropout recovery education services at The Crossing School of Business & Entrepreneurship (“The Crossing”).

**II. Findings of Fact and Conclusions of Law**

1. LaVille Jr.-Sr. High School is a public school located in Lakeville, Indiana, that is a part of the Union-North United School Corporation.
2. LaVille Jr.-Sr. High School educates students in grades 7 through 12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (Board) shall annually place each school in a category or designation of school performance based on the metrics outlines in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) and (3), the accountability category of LaVille Jr.-Sr. High School shall be based on the performance, growth, and multiple measures

domains. The performance and growth shall each be 20% of the overall grade and the multiple measures domain shall equate to 60% of the overall grade.

5. All domains are calculated using the results of “eligible students” as defined by 511 IAC 6.2-10-1(15) including any student who:

(A) was enrolled at the school for at least one hundred sixty-two (162) days in the accountable year; (B) was tested on the mandatory statewide annual assessment, or the end of course assessment; (C) was not a limited English proficient student who has been enrolled in schools in the United States for less than twelve (12) months; and (D) obtained a valid result.

6. On November 1, 2019, LaVille Jr.-Sr. High School received an accountability category placement of a \_\_\_\_\_ for the 2018-2019 school year (Attachment III).

7. On February 21, 2020, LaVille Jr.-Sr. High School timely appealed the Board’s 2018-2019 Accountability Calculation stating:

LaVille Jr. Sr. High School contracts with the Crossing to service at risk students. We are submitting those students that were enrolled in the Crossing from the 2018 cohort and that could negatively impact the 2019 A-F Letter Grade. Attached you will find supporting documentation showing we contract with the Crossing and for individual students enrolled for at least 90 days.

(Attachment II).

8. LaVille Jr.-Sr. High School provided two (2) students it believes should be excluded under IC 20- 31-8-4.6 and 511 IAC 6.2-11. The Department reviewed the official real-time enrollment records for these two (2) students and confirmed that all students attended The Crossing, an eligible school, for more than one-half (1/2) of the school year. (Appeal Response).

9. Indiana Code Section 20-31-8-4.6 provides:

(a) If a school corporation or a charter school enters into an agreement with an eligible school (as defined in [IC 20-51-1-4.7](#)) to provide dropout recovery educational services for an at-risk student who is enrolled at a public school, the student may not be included in the calculation of the public school’s category or designation of school performance.

**10.** 511 IAC 6.2-11-2 provides:

For purposes of calculating the state category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude the accountability indicators of the at-risk student if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**11.** Additionally, 511 IAC 6.2-11-3 provides:

For purposes of calculating a school's category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude at-risk students from the school's cohort, as defined in IC 20-26-13-2, and graduation rate, calculated pursuant to IC 20-26-13, if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**12.** Therefore, the two (2) students should be excluded as an "at risk" student under Indiana Code Section 20-31-8-4.6(a).

**13.** LaVille Jr.-Sr. High School's new 2018-2019 category placement should be a based on the following calculations.

### **III. Recommended Decision**

The Board's Accountability Category calculation for LaVille Jr.-Sr. High School was incorrect. Indiana Code Section 20-31-8-4.6 applies to the 2017-2018 school year and is clear

and unambiguous. Two (2) students should not have been included in the accountability calculation due to the student's enrollment and attendance at The Crossing. LaVille Jr.-Sr. High School should have received a .

DATE: April 16, 2020

/s/ Zanna Claire Dyer, Hearing Officer

### **NOTICE OF APPEAL RIGHT**

Petitioner may file objections to the Hearing Officer's Recommended Decision but must do so no later than ten (10) calendar days from the date the Petitioner receives the Recommended Decision. Any objections must be in writing and must state the legal basis for the objection. Written objections are to be submitted to the Indiana State Board of Education as follows:

**ATTN: Chad Ranney General Counsel**  
[CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

**Certificate of Service**

I certify that on April 16, 2020, I served the foregoing Recommended Decision on the following persons at the email addresses shown below:

Nate McKeand  
[nmckeand@unorth.k12.in.us](mailto:nmckeand@unorth.k12.in.us)

Chad Ranney, General Counsel  
Indiana State Board of Education  
Email: [CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

Maggie Paino, Director of Accountability  
Indiana Department of Education  
Email: [mpaino@doe.in.gov](mailto:mpaino@doe.in.gov)

/s/ Zanna Claire Dyer, Hearing Officer

**BEFORE THE INDIANA  
STATE BOARD OF EDUCATION**

IN THE MATTER OF:	)	
	)	
THE INDEPENDENCE ACADEMY	)	APPEAL PURSUANT TO
(SCHOOL #C589),	)	511 IAC 6.2-10-11
	)	
PETITIONER	)	

**COMBINED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND  
RECOMMENDED DECISION**

**I. Reason for Appeal**

The Independence Academy appeals its 2018-2019 category placement of asserting that the school warrants application of Indiana Code Section 20-31-8-4.5 because the school serves almost exclusively special education students. The Independence Academy requests a “null” grade in light of the fact that an alternative assessment has not been established by the Board since the statute’s enactment.

**II. Findings of Fact and Conclusions of Law**

1. The Independence Academy is a state freeway accredited nonpublic school under Ind. Code § 20-26-15 *et seq.*
2. The Independence Academy educates students in grades 5 through 12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (Board) shall annually place each school in a category or designation of school performance based on the metrics outlines in 511 IAC 6.2-10 *et seq.*

4. Pursuant to 511 IAC 6.2-10-3(d)(2) through (4), the accountability category of The Independence Academy was based on the performance and growth domains for grades 3 through 8 and the graduation rate component of the multiple measures domain.<sup>1</sup>

5. All domains are calculated using the results of “eligible students” as defined by 511 IAC 6.2-10-1(15) including any student who:

(A) was enrolled at the school for at least one hundred sixty-two (162) days in the accountable year; (B) was tested on the mandatory statewide annual assessment, or the end of course assessment; (C) was not a limited English proficient student who has been enrolled in schools in the United States for less than twelve (12) months; and (D) obtained a valid result.

6. On November 1, 2019, The Independence Academy received an accountability category placement of \_\_\_\_\_ for the 2018-2019 school year.

7. On March 23, 2020, The Independence Academy timely appealed the Board’s 2018-2019 Accountability Calculation and requested a null grade based on Indiana Code Section 20-31-8-4.5 because it serves almost exclusively special education students:

Given that our entire population is made up of special education students, and that an alternative accountability system to provide a fairer assessment of our school hasn’t been established, we appeal our current grade designation and request a null grade to be assigned to our school.

8. “Founded in 2008, The Independence Academy is a nonprofit 501c3, state-accredited private school in Indianapolis, Indiana, dedicated to serving families with students in grades 4 to 12 seeking a more personalized approach to education to meet the specific needs of adolescents with high-functioning autism. Students graduate with a fully-accredited high school diploma.” See About IA, The Independence Academy, <https://www.iaindiana.org/about-ia> (last visited April 2, 2020).

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<sup>1</sup> The Independence Academy did not have enough data to calculate the performance or growth domains for grade 10 or the college/career readiness achievement component of the multiple measures domain (Attachment V).

**9.** During the 2018-2019 school year, The Independence Academy had a total of twenty-nine (29) enrolled students, and twenty-eight (28) of those students received special education services (96.6 percent).

**10.** Indiana Code § 20-31-8-4.5, which addresses an alternative assessment methodology for schools focused exclusively on students with “developmental, intellectual, or behavioral challenges,” provides as follows:

In addition to other benchmarks, performance indicators, and accountability standards developed under this article, the state board shall develop alternative benchmarks, performance indicators, and accountability standards to be used in the assessment of schools that focus *primarily* on providing an academic program for students with developmental, intellectual, or behavioral challenges.

(eff. July 1, 2019) (emphasis added).<sup>2</sup>

**11.** The Independence Academy falls under the purview of Indiana Code § 20-31-8-4.5 because the school focuses primarily on “seeking a more personalized approach to education to meet the specific needs of adolescents with *high-functioning autism*.”

**12.** As such, the accountability metrics found in 511 IAC 6.2-10 *et seq.* are inapplicable to The Independence Academy, and the Board erred by analyzing the school’s performance in this manner.<sup>3</sup>

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<sup>2</sup> The amendment to the language in Indiana Code § 20-31-8-4.5 – from exclusively to primarily – was effective July 1, 2019, which was after the 2018-2019 school year. The general rule is that unless there are strong and compelling reasons, statutes will normally be applied prospectively. *Martin v. State*, 774 N.E.2d 43, 44 (Ind. 2002) (citation omitted). This hearing officer finds, however, that the amendment is retroactive and therefore applicable to the 2018-2019 school year. An exception to the general rule against retroactivity exists for remedial statutes, which are statutes intended to cure a defect or mischief that existed in a prior statute. *Martin*, 774 N.E.2d at 44 (citations omitted). When a remedial statute is involved, a court must construe it to effect the evident purpose for which it was enacted. *Id.* (citation omitted). Accordingly, remedial statutes will be applied retroactively to carry out their legislative purpose unless to do so violates a vested right or constitutional guaranty. *Id.* This concept is applicable here.

<sup>3</sup> The Independence Academy received a similar finding for the 2017-2018 school year, as the matter was remanded to the Board for a determination of the applicability of Indiana Code § 20-31-8-4.5 and, if applicable, the development and application of the alternative assessment as required by that statute (Attachment III). The Board voted against assigning a null grade and voted to deny the appeal, thus

**13.** The Independence Academy has requested a “null” or no grade designation in lieu of being fairly assessed under appropriate alternative benchmarks, performance indicators, and accountability.

**14.** Pursuant to Indiana Code § 20-31-8-4(c), effective July 1, 2019<sup>4</sup>:

Based on procedures adopted by the state board, a school corporation or school that focuses primarily on providing an academic program for students with developmental, intellectual, or behavioral challenges may petition the state board for review of the school corporation’s or school’s category or designation of school performance placement based on objective factors that the school corporation or school considers relevant because the annual assessment data does not accurately reflect, as applicable, school performance, growth, or multiple measures. Objective factors include:

- (1) significant demographic changes in the student population;
- (2) errors in data; or
- (3) other significant issues.

After considering the petition for review, the state board may direct the department to revise the category or designation assigned to the school corporation or school, including assigning a “null” or “no letter grade” category or designation to the school corporation or school. The state board may grant the “null” designation for multiple years.

**15.** The Independence Academy falls squarely within the relief provided by Indiana Code § 20-31-8-4(c), and it is clear that the legislature amended this statute to allow schools like The Independence Academy to continue to operate and not be penalized for the failure of the Board to adopt an alternative assessment under Indiana Code § 20-31-8-4.5.

### **III. Recommended Decision**

The Board’s Accountability Category calculation under 511 IAC 6.2-10 *et seq.* for The Independence Academy was incorrect because the school falls squarely within the confines of

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leaving The Independence Academy with an “F” grade despite exclusively focusing on students with developmental, intellectual, and behavioral challenges (Attachment IV).

<sup>4</sup> For the same reasons noted for the retroactive application of Indiana Code § 20-31-8-4.5, this Hearing Officer finds the amendment to Indiana Code § 20-31-8-4 to also be retroactive to the 2018-2019 school year.

Ind. Code § 20-31-8-4.5. Because The Independence Academy’s unique population cannot be judged by the standards set forth in 511 IAC 6.2-10 *et seq.*, it must be judged by the “alternative benchmarks, performance indicators, and accountability standards” demanded by the Legislature in Indiana Code § 20-31-8-4.5 *or* provided the relief of a “null” or “no letter grade” category provided by Indiana Code § 20-31-8-4(c).

DATE: April 14, 2020

/s/ Jodi Kathryn Stein, Hearing Officer

**NOTICE OF APPEAL RIGHT**

Petitioner may file objections to the Hearing Officer’s Recommended Decision but must do so no later than ten (10) calendar days from the date the Petitioner receives the Recommended Decision. Any objections must be in writing and must state the legal basis for the objection. Written objections are to be submitted to the Indiana State Board of Education as follows:

**ATTN:** Chad Ranney, General Counsel  
[CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

**Certificate of Service**

I certify that on April 14, 2020, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

Marisa Gill  
The Independence Academy  
[marisagill@iaindiana.org](mailto:marisagill@iaindiana.org)

Chad Ranney, General Counsel  
Indiana State Board of Education  
Email: [CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

Maggie Paino, Director of Accountability  
Indiana Department of Education  
Email: [mpaino@doe.in.gov](mailto:mpaino@doe.in.gov)

*/s/ Jodi Kathryn Stein, Hearing Officer*

**BEFORE THE INDIANA  
STATE BOARD OF EDUCATION**

IN THE MATTER OF:	)	
	)	
WAWASEE HIGH SCHOOL,	)	APPEAL PURSUANT TO
SCHOOL (SCHOOL #3639),	)	511 IAC 6.2-10-11
	)	
PETITIONER	)	
	)	

**COMBINED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND  
RECOMMENDED DECISION**

**I. Reason for Appeal**

Wawasee High School appeals its 2018-2019 category placement of asserting that one (1) student should not have been included in the accountability calculation due to the student’s enrollment in The Crossing School of Business & Entrepreneurship.

**II. Findings of Fact and Conclusions of Law**

1. Wawasee High School is a public school located in Syracuse, Indiana, that is a part of the Wawasee Community School Corporation.
2. Wawasee High School educates students in grades 9 through 12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (Board) shall annually place each school in a category or designation of school performance based on the metrics outlines in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) and (3), the accountability category of Wawasee High School shall be based on the performance, growth, and multiple measures domains. The performance and growth shall each be 20% of the overall grade and the multiple measures domain shall equate to 60% of the overall grade.

5. All domains are calculated using the results of “eligible students” as defined by 511 IAC 6.2-10-1(15) including any student who:

(A) was enrolled at the school for at least one hundred sixty-two (162) days in the accountable year; (B) was tested on the mandatory statewide annual assessment, or the end of course assessment; (C) was not a limited English proficient student who has been enrolled in schools in the United States for less than twelve (12) months; and (D) obtained a valid result.

5. On November 1, 2019, Wawasee High School received an accountability category placement of \_\_\_\_\_ for the 2018-2019 school year (Attachment III).

6. On February 18, 2020, Wawasee High School timely appealed the Board’s 2018-2019 Accountability Calculation stating:

Request that student listed in documentation be removed for State Report card for school 3639. Student was enrolled with the Crossing for the entire 18-19 school year.

(Attachment II).

7. The Department reviewed the official real-time enrollment record for the student and confirmed<sup>1</sup> that the student attended The Crossing (B009), an eligible school, for more than one-half (1/2) of the 2018-2019 school year. (Appeal Response).

8. Indiana Code Section 20-31-8-4.6 provides:

(a) If a school corporation or a charter school enters into an agreement with an eligible school (as defined in [IC 20-51-1-4.7](#)) to provide dropout recovery educational services for an at-risk student who is enrolled at a public school, the student may not be included in the calculation of the public school’s category or designation of school performance.

9. 511 IAC 6.2-11-2 provides:

For purposes of calculating the state category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude the accountability indicators of the at-risk student if: (1) a school corporation or charter school, in which the at-risk student

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<sup>1</sup> Wawasee High School failed to include any evidence that the student was enrolled at The Crossing. In the future, please submit the school’s contract with an eligible school in any appeal.

is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**10.** Additionally, 511 IAC 6.2-11-3 provides:

For purposes of calculating a school's category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude at-risk students from the school's cohort, as defined in IC 20-26-13-2, and graduation rate, calculated pursuant to IC 20-26-13, if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

**11.** Therefore, the student should be excluded as an "at risk" student under Indiana Code Section 20-31-8-4.6(a).

**12.** Wawasee High School's new 2018-2019 category placement should be based on the following calculations.

### **III. Recommended Decision**

The Board's Accountability Category calculation for Wawasee High School was incorrect. Indiana Code Section 20-31-8-4.6 applies to the 2018-2019 school year and is clear and unambiguous. One (1) student should not have been included in the accountability calculation due to the student's enrollment in The Crossing School of Business & Entrepreneurship. Wawasee High School should have received

DATE: April 16, 2020

/s/ Zanna Claire Dyer, Hearing Officer

### **NOTICE OF APPEAL RIGHT**

Petitioner may file objections to the Hearing Officer's Recommended Decision but must do so no later than ten (10) calendar days from the date the Petitioner receives the Recommended Decision. Any objections must be in writing and must state the legal basis for the objection. Written objections are to be submitted to the Indiana State Board of Education as follows:

**ATTN: Chad Ranney General Counsel**  
[CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

**Certificate of Service**

I certify that on April 16, 2020, I served the foregoing Recommended Decision on the following persons at the email addresses shown below:

Shawn Johnson  
[sjohnson@wawasee.k12.in.us](mailto:sjohnson@wawasee.k12.in.us)

Chad Ranney, General Counsel  
Indiana State Board of Education  
Email: [CRanney@sboe.in.gov](mailto:CRanney@sboe.in.gov)

Maggie Paino, Director of Accountability  
Indiana Department of Education  
Email: [mpaino@doe.in.gov](mailto:mpaino@doe.in.gov)

/s/ Zanna Claire Dyer, Hearing Officer

**BEFORE THE INDIANA  
STATE BOARD OF EDUCATION**

IN THE MATTER OF:	)	
	)	APPEAL PURSUANT TO
WEST SIDE LEADERSHIP ACADEMY	)	511 IAC 6.2-10-11
(SCHOOL #4163),	)	
	)	
PETITIONER	)	

**COMBINED FINDINGS OF FACT AND CONCLUSIONS OF LAW, AND  
RECOMMENDED DECISION**

**I. Reason for Appeal**

West Side Leadership Academy appeals its 2018-2019 category placement of raising issues as to the 2019 graduation rate audit, the change in culture following the school’s merger with another local high school, chronic absenteeism/habitual truancy, and the inclusion of six (6) “at risk” students in the accountability calculation.

**II. Findings of Fact and Conclusions of Law**

1. West Side Leadership Academy is a public school located in Gary, Indiana, and is a part of the Gary Community School Corporation.
2. West Side Leadership Academy educates students in grades 9 through 12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (Board) shall annually place each school in a category or designation of school performance based on the metrics outlines in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) through (4), the accountability category of West Side Leadership Academy shall be based on the performance, growth, and multiple measures domains. The performance and growth shall each be 20% of the overall grade and the multiple measures domain shall equate to 60% of the overall grade.

5. All domains are calculated using the results of “eligible students” as defined by 511 IAC 6.2-10-1(15) including any student who:

(A) was enrolled at the school for at least one hundred sixty-two (162) days in the accountable year; (B) was tested on the mandatory statewide annual assessment, or the end of course assessment; (C) was not a limited English proficient student who has been enrolled in schools in the United States for less than twelve (12) months; and (D) obtained a valid result.

511 IAC 6.2-10-1(15).

6. On November 1, 2019, West Side Leadership Academy received an accountability category placement of \_\_\_\_\_ for the 2018-2019 school year (Attachment III).

7. On February 21, 2020, West Side Leadership Academy timely appealed the Board’s 2018-2019 Accountability Calculation stating that:

The 2018-2019 school year brought about great challenges and significant objective factors for our school community as a whole. Mobility, chronic absenteeism, socioeconomic status, graduation rate, and approval of required graduation documentation were some of the challenges that our local education agency faced.

(Attachment IV).

8. While not a factor within the school’s control, the unfortunate chronic absenteeism/habitual truancy and culture change brought about from the merger with William A. Wirt High School has no effect on the accountability calculation. Indiana’s accountability system found in 511 IAC 6.2-10 *et seq.* does not incorporate any metric of attendance or uncontrollable shifts in culture. Thus, all students who met the definition of an eligible student were included in the school’s accountability calculation, regardless of circumstances.

9. West Side Leadership Academy’s challenge to the 2019 graduation rate audit finding also has no effect on the accountability calculation for two reasons. First, the school did

not submit a timely request to appeal that finding, so the finding stands. Second, the 2019 graduation rate audit finding has no application in this appeal. The graduation cohort used in the 2018-2019 accountability calculation is the “most recent finalized cohort” under 511 IAC 6.2-10-6(c)(1). The most recently finalized graduation cohort relevant to the 2018-2019 accountability calculation was the 2018 graduation cohort.

10. West Side Leadership Academy additionally claims that six (6) students should be excluded as “at risk” students under Indiana Code Section 20-31-8-4.6(a).

11. Indiana Code Section 20-31-8-4.6 provides:

(a) If a school corporation or a charter school enters into an agreement with an eligible school (as defined in [IC 20-51-1-4.7](#)) to provide dropout recovery educational services for an at-risk student who is enrolled at a public school, the student may not be included in the calculation of the public school’s category or designation of school performance.

12. 511 IAC 6.2-11-2 provides:

For purposes of calculating the state category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude the accountability indicators of the at-risk student if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

13. Additionally, 511 IAC 6.2-11-3 provides:

For purposes of calculating a school’s category or designation of school performance under IC 20-31-8, a public school or charter school in which an at-risk student is enrolled shall exclude at-risk students from the school’s cohort, as defined in IC 20-26-13-2, and graduation rate, calculated pursuant to IC 20-26-13, if: (1) a school corporation or charter school, in which the at-risk student is enrolled, has entered into a contract with an eligible school to provide dropout recovery educational services to at-risk students; and (2) the at-risk student attends an eligible school and receives dropout recovery educational services from that school for more than one-half (1/2) of the school year.

14. Of the six (6) students sought to be excluded under the “at risk” statute and rules, two (2) of the students were not eligible by definition in 511 IAC 6.2-10-1(15) because these two students did not have valid test results and were not enrolled for at least 162 days; therefore, neither student was included in the accountability calculation. Even if eligible, though, neither student was enrolled in or attended the eligible school (The Crossing) for more than one-half (1/2) of the school year, as required by 511 IAC 6.2-11-2 and 3, and thus would not have been excluded on that basis (Attachment V).

15. Of the remaining four (4) challenged students, one student was enrolled in the 11<sup>th</sup> grade during the 2018-2019 school year and was thus ineligible for inclusion in any of the domain scores. *See* 511 IAC 6.2-10 *et seq.* (identifying the applicable grade levels relevant to the domain scores).

16. The last three (3) challenged students were part of the 2019 cohort and were not included. As mentioned above, the graduation cohort used in the 2018-2019 accountability calculation was the 2018 graduation cohort (Attachment VII).

### **III. Recommended Decision**

The Board’s Accountability Category calculation for West Side Leadership Academy was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Unfortunately, neither statute nor administrative rule provides for students to be excluded from the accountability calculation due to absenteeism/truancy or culture changes due to situations beyond the school’s control. Further, none of the six (6) challenged “at risk” students were included in the accountability calculation for the various reasons cited above. The Board’s calculation of a category placement of \_\_\_\_\_ was proper and should be sustained.

DATE: April 14, 2020

/s/ Jodi Kathryn Stein, Hearing Officer

**NOTICE OF APPEAL RIGHT**

Petitioner may file objections to the Hearing Officer’s Recommended Decision but must do so no later than ten (10) calendar days from the date the Petitioner receives the Recommended Decision. Any objections must be in writing and must state the legal basis for the objection. Written objections are to be submitted to the Indiana State Board of Education as follows:

**ATTN:** Chad Ranney, General Counsel  
Email: [cranney@sboe.in.gov](mailto:cranney@sboe.in.gov)

**Certificate of Service**

I certify that on April 14, 2020, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

Tonia Brewer  
West Side Leadership Academy  
Email: [tbrewer@garycsc.k12.in.us](mailto:tbrewer@garycsc.k12.in.us)

Chad Ranney, General Counsel  
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*/s/ Jodi Kathryn Stein, Hearing Officer*