



INDIANA STATE BOARD OF EDUCATION

To: Indiana State Board of Education Members
From: Chad E. Ranney, Deputy General Counsel
Date: February 6, 2019
RE: Recommended A-F Decisions

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 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 subject to the decisions being considered today have filed an Objection to the Recommended Decision with Board staff. After reviewing the decisions, Board staff recommends approving the Recommended Decisions.

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
BLOOMINGTON HIGH SCHOOL NORTH) APPEAL PURSUANT TO
(SCHOOL NO. # 6168),) 511 IAC 6.2-10-11
PETITIONER)

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

I. Reason for Appeal

Bloomington High School North requested that the two students submitted on the appeal be given a status of “pass” on the assessment instead of “did not pass” on the ISTAR math assessment on the basis that the two students met individual math goals.

II. Combined Findings of Fact and Conclusions of Law

1. Bloomington High School North is a public school part of Monroe County Community School Corporation located in Bloomington, Indiana.
2. Bloomington High School North 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 Bloomington High School North 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 constitutes 60%.
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 test result.

511 IAC 6.2-10-1(15).

6. On September 24, 2018, Bloomington High School North received an accountability category placement of a “B” for the 2017-2018 school year.

7. On October 8, 2018, Bloomington High School North timely appealed the Board’s 2017-2018 Accountability Calculation, stating that a because the school routinely enrolls children from nearby corporations because of the unique availability of specialized health/medical service within its community, and the corporation provides state of the art special education services, they have children who are achieving growth in ways that are not easily assessed through state assessments. Thus, Bloomington High School North requested that the two students submitted on the appeal be given a status of “pass” on the assessment instead of “did not pass” on the ISTAR math assessment on the basis that the two students met individual math goals.

8. Bloomington High School North’s overall letter grade was a “B” (89.9 points).

9. Pursuant to 511 IAC 6.2-10-4(b)(4) and (c)(4), points awarded for the performance domain shall equal the product of eligible students who passed the mandatory statewide annual assessment and the participation rate on the mandatory statewide annual assessment. 511 IAC 6.2-10-1(29) defines the mandatory statewide annual assessment as the assessment required under IC 20-32-5-2 and any alternatives to that assessment.

10. Indiana provides for an alternative to the ISTEP for those students identified as having the most significant cognitive disabilities. Students identified by their case conference committees as having the most significant cognitive disabilities may take the alternative assessment to the ISTEP, which is the ISTAR assessment. Since the administrative rule requires the performance domain score be based on the mandatory statewide annual assessment, and the definition of such assessment includes any alternatives to this assessment, both ISTEP and ISTAR results are considered when determining the proficiency rates and participation rates that yield the overall performance domain scores. If a student met the definition of an “eligible student” and took the ISTAR assessment, then that student’s result would be included in the performance domain in the same manner as an “eligible student” who took the ISTEP assessment.

11. As both Bloomington High School North students took the ISTAR test, they were properly categorized as “eligible students” for the purpose of determining the proficiency rates and participation rates that yield the overall performance domain scores. While the students’ individual achievements in meeting their individual math goals are laudable, the statutes and administrative code do not allow the revision of a “did not pass” to a “pass” for an eligible student on the basis of meeting individual goals.

12. Pursuant to 511 IAC 6.2-10-5(b)(2) and (c)(2), points awarded for the growth domain are based on the average scores of all eligible students. Growth scores are generated based on the mandatory statewide annual assessment. Growth must be measured on the same assessment to ensure validity. Growth calculations do not consider ISTEP and ISTAR results collectively; rather, growth scores can only be calculated based on analysis of ISTEP results separate from ISTAR results. Further, there must be enough students incorporated in the

dataset in order to provide for valid and reliable growth scores for students. Roughly one percent of the student population in Indiana is assessed on the ISTAR assessment. This does not provide for enough students from a statistical standpoint to yield valid growth scores for students taking the ISTAR assessment. Therefore, growth scores are not generated for students who take the ISTAR assessment, and these students are not included in the growth domain calculations.

13. There is no indication that the two students were improperly included in the growth domain for Bloomington High School North. Nor would reclassifying the two students as having the status of “pass” instead of “did not pass” have any effect on Bloomington High School North’s growth domain, as there is no claim that the students took any test but the ISTAR assessment.

14. Pursuant to I.C. § 20-31-8-4.5, there exists alternative assessment methodology for schools focused exclusively on students with developmental, intellectual, or behavioral challenges. However, the Indiana State Board of Education is required by statute to only develop alternative benchmarks, performance indicators, and accountability standards to be used in the assessment of schools that focus *exclusively* on providing an academic program for students with developmental, intellectual, or behavioral challenges.

15. Bloomington High School North makes no claim and presents no evidence that it exclusively provides an academic program for students with developmental, intellectual, or behavioral challenges. Therefore, Bloomington High School North does not fall under the alternative accountability standards under Ind. Code § 20-31-8-4.5 because it does not “exclusively” provide academic programming for students with developmental, intellectual, or behavioral challenges.

16. There is no other reason to believe that the two students presented by Bloomington High School North were not eligible students and properly included when the appropriate domains were calculated.

III. Recommended Decision

The Board's Accountability Category calculation for Bloomington High School North was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Neither statute nor administrative rule provides for any student to be excluded from or recategorized as "pass" instead of "did not pass" in the Accountability Calculations due to the fact that they met individualized math goals. This is not to minimize the achievement of the two students or the school. But there is no evidence that the students were not properly considered eligible students, given the proper status, and included in the appropriate domain calculations. Thus, the Board's calculation of a category placement of a "B" was proper and should be sustained.

DATE: December 7, 2018

/s/ Nicole Schuster, HEARING OFFICER
Office of the Indiana Attorney General
302 W. Washington St., IGCS 5th Floor
Indianapolis, IN 46204-3795
Email: Nicole.Schuster@atg.in.gov

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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 7, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Molly Skarbeck _____

Angela Harlan
Email: aharlan@mccse.edu

Timothy A. Schultz, General Counsel
Indiana State Board of Education
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Maggie Paino, Director of Accountability
Indiana Department of Education
Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
BROWNSTOWN ELEMENTARY SCHOOL	) APPEAL PURSUANT TO
(SCHOOL NO. # 3129)	) 511 IAC 6.2-10-11
)
PETITIONER)

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

I. Reason for Appeal

Brownstown Elementary School appeals its 2017-2018 category placement of a “C” grade (79.4 points), requesting and asserting that:

- a) Three students’ test scores be included in the Accountability Category calculation, notwithstanding that each student was not enrolled 162 days at Brownstown Elementary School during the 2017-2018 school year (**“Complaint 1”**);
- b) A student’s growth score on the English/language arts portion of the ISTEP+ be excluded from the Accountability Category calculation because the student’s mother died at the beginning of the test window, presumably before the student took the ISTEP+ (**“Complaint 2”**);
- c) Two students’ test scores from alternative tests, such as ISTAR, be included in the growth domain of the Accountability Category calculation because these students demonstrated growth in other ways that are not measured and/or represented by the growth calculation used for statewide accountability assessments (**“Complaint 3”**); and
- d) Brownstown Elementary School does not have 1:1 proportional access to technology/computers, leaving students at an unfair advantage and negatively impacting their performance on the online assessment of the ISTEP+ (**“Complaint 4”**).

II. Combined Findings of Fact and Conclusions of Law

1. Brownstown Elementary School is a public school part of the Brownstown Central Community School Corporation located in Brownstown, Indiana.

2. Brownstown Elementary School educates students in prekindergarten through grade 5.

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. According to 511 IAC 6.2-10-3(d)(2)(a) and (3), the accountability category of Brownstown Elementary School shall be based on the performance and growth domains, with each domain at half of the overall letter grade score.

5. Both 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 test result.

511 IAC 6.2-10-1(15).

6. For purposes of 511 IAC 6.2-10-1(15), it is enrollment time, not attendance time, that is determinative. A student may qualify as an eligible student per 511 IAC 6.2-10-1(15), yet attend school less than a 162 days during a school year.

7. 511 IAC 6.2-10-5 outlines the calculation of the growth domain, and pursuant to 511 IAC 6.2-10-1(24), the growth domain is based on the cumulative points awarded for the growth scores of all eligible students on the mandatory statewide assessment.

8. On September 24, 2018, Brownstown Elementary School received an

accountability category placement of a “C” grade (79.4 points) for the 2017-2018 school year.

9. On October 7, 2018, Brownstown Elementary School timely appealed the Board’s 2017-2018 Accountability Category calculation, asserting Complaint 1, Complaint 2, Complaint 3, and Complaint 4.

10. According to the Department and Brownstown Elementary School, the students specified in Complaint 1 are not eligible students per 511 IAC 6.2-10-1(15) because they were not enrolled 162 during the 2017-2018 school year.

11. According to the Department, the student specified in Complaint 2 is an eligible student per 511 IAC 6.2-10-1(15) because the student was enrolled 162 during the 2017-2018 school year.

12. The 2017-2018 Indiana Assessment Program Manual (the “Manual”) provides guidance on how to administer the examination of a student that needs accommodation during the testing window. Accommodation can be provided for students which experience health-related issues, unexpected events that significantly disrupts the testing environment of a student, and for schools which elect and receive approval from the Department to administer the ISTEP+ on paper, as opposed to online. Further, the Manual provides an opportunity for students to complete a series of practice examinations online so that students can acclimate to using online testing tools.

13. Brownstown Elementary School has provided no documentation or evidence which outlines its effort or steps taken to receive accommodation in accordance with the Manual for the issues raised in Complaint 2 and Complaint 4. Absent such evidence, it is

presumed that Brownstown Elementary School did not attempt to receive accommodation from the Department.

III. Recommended Decision

The Board's Accountability Category calculation for Brownstown Elementary School was proper. The Board properly followed 511 IAC 6.2-10 in its calculation.

Complaint 1:

The test scores of students specified in Complaint 1 were correctly excluded from the Accountability Category calculation because each student was not enrolled at least 162 days during the 2017-2018 school year and therefore not an eligible student per 511 IAC 6.2-10-1(15).

Complaint 2:

The student specified in Complaint 2 was correctly included in the Accountability Category calculation because the student was enrolled at least 162 days during the 2017-2018 school year and therefore is an eligible student per 511 IAC 6.2-10-1(15). While this student certainly experienced a significant tragedy, there is no rule which permits excluding this student's test score. The time and proper manner to accommodate this student is set out in the Manual.

Complaint 3:

There are several ways to assess a student's academic growth. The Department, however, shall only include growth scores obtained from mandatory statewide annual assessments in its Accountability Category calculation. 511 IAC 6.2-10-1(24). Consequently, a growth score obtained from an alternative test, such as ISTAR, cannot be included in the Accountability Category calculation.

Complaint 4:

While schools are encouraged to administer the ISTEP+ online, there are accommodations per the Manual which permit a school to administer the examination on paper. The school did not seek this accommodation, and the school cannot rectify its lack of access to computers through appeal.

For these reasons, the Board's calculation of a category placement of "C" (79.4 points) should be sustained.

DATE: December 16, 2018

/s/ Susan W Gard, 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) 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify on December 6, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Susan W. Gard, Hearing Officer

Chrystal Street, School Representative

Cstreet@btownccs.k12.in.us

Timothy A. Schultz, General Counsel
Indiana State Board of Education
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Maggie Paino, Director of Accountability
Indiana Department of Education
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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
CANNELTON ELEMENTARY & HIGH SCHOOL) APPEAL PURSUANT TO
(SCHOOL # 6733),	) 511 IAC 6.2-10-11
)
PETITIONER)

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

I. Reason for Appeal

Cannelton Elementary and High School appeals its 2017-2018 category placement of a “D” grade (61.7 points), “requesting a review of our growth points for grades 9-12.”

II. Combined Findings of Fact and Conclusions of Law

1. Cannelton Elementary and High School is a public school that is part of Cannelton City Schools located in Cannelton, Indiana.
2. Cannelton Elementary and High School educates students in pre-kindergarten through grade 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 Cannelton Elementary and High School shall be based on the performance, growth and multiple measures domains, where data are available.

5. For a school that serves grade levels 3 through 8 and 9 through 12 spans, the domains are weighted based on enrollment percentage in those grade levels.
6. Both 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 test result.

511 IAC 6.2-10-1(15).

7. On September 24, 2018, Cannelton Elementary and High School received an accountability category placement of a “D” grade for the school year 2017-2018 (61.7 points).
8. On September 27, 2018, Cannelton Elementary and High School timely appealed the Board’s 2017-2018 Accountability Calculation, asserting the following.

We are requesting a review of our growth points for grades 9–12.

9. 511 IAC 6.2-10-5 outlines the calculation of the growth domain, and indicates that points are awarded for the growth domain based on the average growth scores of students performing in the top 75% of students at the school in the respective subject areas and of students performing in the bottom 25% of students at the school in the respective subject areas.

10. Pursuant to 511 IAC 6.2-10-1(24), the growth domain “means the points awarded for scores of an eligible student on the mandatory statewide annual assessment administered in the year, as compared with the scores of the same eligible student on the mandatory statewide annual assessment administered during the school year immediately preceding the accountable year.”

11. Pursuant to 511 IAC 6.2-10-5(b)(2) and (c)(2), a school must have at least 40 eligible students in an accountable year to calculate a growth domain score. If a school does not have at least 40 eligible students in the accountable year, then the school’s growth domain shall be based on the results of a cumulative aggregate of eligible students from prior school years. If after aggregating all years of available data, a school is unable to have at least 40 eligible students, then the school will not receive a growth domain score because data are not available.

12. For the 2017-2018 school year, Cannelton Elementary & High School had 16 eligible students in the grade 10 cohort with growth scores. Since the school did not meet the minimum requirement of 40 eligible students, the calculation incorporated the eligible students from the 2016 -2017 school year, which was 21 students. The 2016 -2017 school year was the first year for which growth could be calculated for grade 10. Therefore, the total number of eligible students available for the grade 10 growth domain calculation was 37 students. Since the school could not calculate the growth domain for grade 10, it was excluded from the calculation entirely and did not penalize the school.

13. The school submitted a list of students in grades 11 and/or 12 during the 2017-2018 school year who retook the ISTEP+ 10 assessment to be considered for inclusion in the growth calculation. However, since the definition of an eligible student includes those in the grade 10 cohort and excludes those who retest on the same assessment for two consecutive years, these students are not considered for the growth domain calculation for grade 10.

III. Recommended Decision

The Board's Accountability Category calculation for Cannelton Elementary and High School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Thus the Board's category placement of a "D" was proper and should be sustained.

DATE: December 14, 2018

/s/ Gordon E. White, Hearing Officer

NOTICE OF APPEAL RIGHT

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ATTN: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify on December 14, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Gordon E. White, Hearing Officer

Amber Snyder, School Representative
asnyder@cannelton.k12.in.us

Timothy A. Schultz, General Counsel
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Maggie Paino, Director of Accountability
Indiana Department of Education
PH: 317- 232-9185|
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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
CLEAR CREEK ELEMENTARY SCHOOL) APPEAL PURSUANT TO
(SCHOOL NO. # 6189),	) 511 IAC 6.2-10-11
)
PETITIONER)

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

I. Reason for Appeal

Clear Creek Elementary School appeals its 2017-2018 category placement of a “C” grade (72.1 points), asserting that:

- a) Five students’ test scores should be excluded from the Accountability Category calculation because they did not attend school 162 days during the 2017-2018 school year (“Complaint 1”);
- b) Students’ growth scores from alternative tests, namely ISTAR and/or Exact Path should be included in the Accountability Category calculation (“Complaint 2”); and
- c) Two students’ test scores should be excluded from the Accountability Category calculation because one student’s test screen went blank while responding to a question because of an automatic update, and another student had to restart the program because it did not respond (“Complaint 3”).

II. Combined Findings of Fact and Conclusions of Law

1. Clear Creek Elementary School is a public school that is part of the Monroe County Community School Corporation (School Corporation) located in Bloomington, Indiana.

2. Clear Creek Elementary School educates students in prekindergarten through grade 6.

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. According to 511 IAC 6.2-10-3(d)(2)(a) and (3), the accountability category of Clear Creek Elementary School shall be based on the performance and growth domains, with each domain at half of the overall letter grade score.

5. Both 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 test result.

511 IAC 6.2-10-1(15).

6. For purposes of 511 IAC 6.2-10-1(15), it is enrollment time, not attendance time that is determinative. A student may qualify as an eligible student per 511 IAC 6.2-10-1(15) yet attend school less than a 162 days during a school year.

7. 511 IAC 6.2-10-5 outlines the calculation of the growth domain, and pursuant to 511 IAC 6.2-10-1(24), the growth domain is based on the cumulative points awarded for the growth scores of all eligible students on the mandatory statewide assessment.

8. 511 IAC 6.2-10-1(29) defines the mandatory statewide annual assessment as the assessment required under IC 20- 32-5-2 and any alternatives to that assessment.

9. Indiana provides for an alternative to the ISTEP for those students identified

as having the most significant cognitive disabilities. Students identified by their case conference committees as having the most significant cognitive disabilities may take the alternative assessment to the ISTEP, which is the ISTAR assessment. However, there is not enough students who take the ISTAR from a statistical standpoint to yield valid growth scores. Thus, the Department does not include a student's growth score in its accountability category calculation.

10. On September 24, 2018, Clear Creek Elementary School received an accountability category placement of a "C" grade (72.1 points) for the 2017-2018 school year.

11. On October 7, 2018, Clear Creek Elementary School timely appealed the Board's 2017-2018 Accountability Calculation, asserting Complaint 1; Complaint 2; and Complaint 3.

12. Upon review, the Department of Education (Department) found that all five students in Complaint 1 were enrolled at least 162 days during the 2017-2018 school year.

13. On April 11, 2018, a representative from Pearson, the test vendor, visited two schools¹ per the request of the School Corporation to address the technology issues raised.

14. During this on-site visit, Pearson's representative (Pearson) could not replicate any of the technological issues raised nor did the School Corporation provide any error codes.

¹ In its appeal, Clear Creek Elementary School does not specify that a representative from Pearson visited its school, but the Board only received an appeal from two schools in the Monroe County Community

15. Pearson assured the School Corporation that TestNav (the computer testing software) will not search for updates while a student is logged onto a secured ISTEP exam.

16. An iPad experienced a minute delay upon logging out of a practice test, but Pearson was unable to definitively answer why there was a slight delay, and inquired about the wireless access points and bandwidth of the school. Pearson also recommended that the school check its Secure File Transfer Protocol server.

III. Recommended Decision

The Board's Accountability Category calculation for Clear Creek Elementary School is accurate. The test scores of students specified in Complaint 1 were correctly included in the Accountability Category calculation because each student was enrolled at least 162 days during the 2017-2018 school year and therefore an eligible student per 511 IAC 6.2-10-1(15).

The Department does not include a student's growth score in its accountability category calculation because there is not enough students who take the ISTAR from a statistical standpoint to yield valid growth scores. The request specified in Complaint 2 should be denied.

There is no evidence that Pearson or the Department are at fault for the technological difficulties specified in Complaint 3. Without obtaining a valid test result, the two students referenced in Complaint 3 are not eligible students per 511 IAC 6.2-10-1(15). Therefore, their test scores cannot be included in the Accountability Category calculation.

School Corporation. Thus, it is presumed that Clear Creek Elementary School is one of the two schools that

For the above-mentioned reasons, the Board’s calculation of a category placement of “C” (72.1 points) should be sustained.

DATE: December 14, 2018

/s/ Travis D. Lovett, Hearing Officer

NOTICE OF APPEAL RIGHT

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ATTN: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

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/s/ Travis D. Lovett, Hearing Officer

Angela Harlan, School Representative
aharlan@mccsc.edu

Timothy A. Schultz, General Counsel
Indiana State Board of Education
PH: 317-233-4088
Email: TSchultz1@sboe.in.gov

Maggie Paino, Director of Accountability
Indiana Department of Education

Pearson visited during the month of April to address technological issues.

PH: 317- 232-9185|
Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
CROTHERSVILLE JR – SR	)	APPEAL PURSUANT TO
HIGH SCHOOL	)	511 IAC 6.2-10-11
(SCHOOL # 3121),)	
)	
PETITIONER)	
)	

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

I. Reason for Appeal.

Crothersville Junior-Senior High school noted that 4 specific students were “counted as a part of our data” when the students did not attend the School during the 2017-2018 school year.

II. Findings of Fact and Conclusions of Law

1. Crothersville Junior-Senior High School is a part of Crothersville Community Schools.
2. The School educates students in grades 9-12.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (the “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 the School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.
5. Each subject score is weighted at half of the overall domain score.
6. “Growth domain,” defined in 511 IAC 6.2-10-1 (24), means “the points awarded for

scores of an eligible student on the mandatory statewide annual assessment administered in the accountable year, as compared with the scores of the same eligible student on the mandatory statewide annual assessment administered during the school year immediately preceding the accountable year.”

7. The School is a “small school” as defined in 511 IAC 6.2-10-1 (42) (B).

8. The students identified by the School were eligible students at the School in 2016-2017.

9. The Indiana Department of Education gives guidance on how the growth domain score may be calculated in small schools:

Eligible students in grades 4 – 10 are included in the growth domain score. A school must have at least 40 eligible students in the accountable year to obtain a score for each indicator. **If a school does not have at least 40 eligible students then the score will be based on a cumulative aggregate of eligible students. This means that the score will include eligible students from previous school years until a total of 40 eligible students has been obtained and a score may be calculated.**

Indiana Department of Education: *INDIANA’S STUDENT-CENTERED ACCOUNTABILITY SYSTEM – Frequently Asked Questions* (Revised September 14, 2017) (emphasis added)

10. The 4 students identified by the School were eligible students in the 2016-2017 school year, and were properly included as previous school year students in the growth domain calculations.

III. Decision

The School’s growth domain for the school year 2017-2018 was calculated using appropriate data.

DATE: January 16, 2019

/s/ Susan W. Gard, Hearing Officer

NOTICE OF APPEAL RIGHT

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ATTN: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on January 16, 2019, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Susan W. Gard, Hearing Officer

Adam Robinson
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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
DARDEN ELEMENTARY SCHOOL) APPEAL PURSUANT TO
(SCHOOL NO. # 7435),	) 511 IAC 6.2-10-11
)
PETITIONER)

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

I. Reason for Appeal

Darden Elementary School appeals its 2017-2018 category placement of a “D” grade (68.5 points), asserting that:

- a) The test score of one student (“Student A”) was mistakenly excluded from the Accountability Category calculation;
- b) The test score of one student (“Student B”) should be excluded from the Accountability Category calculation because Student B attended school less than a 162 days during the 2017-2018 school year; and
- c) There is a negative impact on Darden Elementary School’s grade and performance because 5% of its student population take alternative assessments, such as Indiana Standards Tools for Alternative Reporting (ISTAR) and therefore, requests that the test scores of three students be excluded from the Accountability Category calculation to reflect that 3%, as opposed to 5%, are tested under alternative standards.

II. Combined Findings of Fact and Conclusions of Law

- 1. Darden Elementary School is a public school part of the South Bend Community School Corporation located in South Bend, Indiana.
- 2. Darden Elementary School educates students in kindergarten through grade 5.
- 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. According to 511 IAC 6.2-10-3(d)(2)(a) and (3), the accountability category of Darden Elementary School shall be based on the performance and growth domains, with each domain at half of the overall letter grade score.

5. Both 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 test result.

511 IAC 6.2-10-1(15).

6. For purposes of 511 IAC 6.2-10-1(15), it is enrollment time, not attendance time that is determinative. A student may qualify as an eligible student per 511 IAC 6.2-10-1(15) yet attend school less than a 162 days during a school year.

7. 511 IAC 6.2-10-1(29) defines the mandatory statewide annual assessment as the assessment required under IC 20- 32-5-2 and any alternatives to that assessment.

8. Indiana provides for an alternative to the ISTEP for those students identified as having the most significant cognitive disabilities. Students identified by their case conference committees as having the most significant cognitive disabilities may take the alternative assessment to the ISTEP, which is the ISTAR assessment. However, there is not enough students who take the ISTAR from a statistical standpoint to yield valid

growth scores. Thus, the Department does not include a student's growth score in its accountability category calculation.

9. On September 24, 2018, Darden Elementary School received an accountability category placement of a "D" grade (68.5 points) for the 2017-2018 school year.

10. On October 8, 2018, Darden Elementary School timely appealed the Board's 2017-2018 Accountability Category calculation, asserting that:

- a) Student A's test score was mistakenly excluded from the Accountability Category calculation;
- b) Student B's test score should be excluded from the Accountability Category calculation because Student B attended school less than a 162 days during the 2017-2018 school year; and
- c) There is a negative impact on Darden Elementary School's grade and performance because 5% of its student population take alternative assessments, such as ISTAR and therefore, requests that the test scores of three students be excluded from the Accountability Category calculation to reflect that 3%, as opposed to 5%, are tested under alternative standards.

11. Pursuant to Ind. Code § 20-33-2-3.2, Ind. Code § 20-33-2-14, and Ind. Code § 20-20-8-8, the Indiana Department of Education (Department) collects data to determine how many days a student was enrolled during the accountable year. Data is submitted directly by a school to the Department through a collection process at the end of the school year.

12. All schools are provided the opportunity to review the data and must sign-off to confirm its accuracy. Once the school has done so, the record is final and cannot change.

13. Upon review, the Department made the following conclusions:

- a) Student A had no data records submitted for the 2017-2018 school year, but did have real-time records indicating enrollment of at least 162 days during the 2017-2018 school year. The Department addressed

this data error as an audit request and approved the inclusion of Student A in the Accountability Category calculation;

- b) Student B, although absent 61 days, was enrolled 180 days during the 2017-2018 school year; and
- c) The test scores of the three students that Darden Elementary School requests to be excluded to cap its special education population at 3% were included in the Accountability Category calculation because the three students are eligible students as defined by 511 IAC 6.2-10-1(15).

III. Recommended Decision

The Board's Accountability Category placement for Darden Elementary School is correct. The Department included the test score of Student A in the Accountability Calculation because Student A, per real-time records, was enrolled at least 162 days during the 2017-2018 school year.

Student B, although absent 61 days, was an eligible student per 511 IAC 6.2-10-1(15) because Student B was enrolled at least 162 days during the 2017-2018 school year. Therefore, Student B's test score should not be excluded from the Accountability Category calculation.

The test scores of eligible students cannot be excluded to balance or offset test scores of non-eligible students. Further, test scores obtained from ISTAR are not included in and do not impact the Accountability Category calculation. Darden Elementary School's request to exclude three student's test score to cap its special education population at 3% should be denied.

For the above-mentioned reasons, the Board's calculation of a category placement of "D" (68.5 points) should be sustained.

DATE: December 14, 2018

/s/ Travis D. Lovett, 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) 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify on December 14, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Travis D. Lovett, Hearing Officer

Patty Karban, School Representative
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Maggie Paino, Director of Accountability
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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
DILLSBORO ELEMENTARY SCHOOL) APPEAL PURSUANT TO
(SCHOOL NO. # 1141),	) 511 IAC 6.2-10-11
)
PETITIONER)

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

I. Reason for Appeal

Dillsboro Elementary School appeals its 2017-2018 category placement of a “B” grade (89.6 points), asserting that the third grade teacher missed 37 ½ education days due to illness and ultimately passed away. These circumstances negatively impacted the students’ performance on the ISTEP+ test.

II. Combined Findings of Fact and Conclusions of Law

1. Dillsboro Elementary School is a public school that is part of the South Dearborn Community School Corporation located in Aurora, Indiana.
2. Dillsboro Elementary School educates students in kindergarten through grade 6.
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 Dillsboro Elementary School shall be based on the performance, growth and multiple measures domains, where data are available.
5. For a school that serves grade levels 3 through 8, the domains are weighted based on enrollment percentage in those grade levels.
6. Both 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 test result.

511 IAC 6.2-10-1(15).

7. On September 24, 2018, Dillsboro Elementary School received an accountability category placement of a “B” grade for the school year 2017-2018 (89.6 points).
8. On October 4, 2018, Dillsboro Elementary School timely appealed the Board’s 2017-2018 Accountability Calculation, asserting that the school has a small enrollment with 126 students counting toward ISTEP+ results. Included within that 126 students was a third grade class of 25 students. The third grade teacher missed 37 ½ educational days prior to May 14, 2018 due to illness and passed away on that day. Her absences and ultimate passing were

disruptive to the students and the school as substitute teachers needed to be found and she had been employed at the school for over 30 years.

9. The passing of the third grade teacher was a tragedy for the school and the students but all eligible students need to be included in the school's accountability calculations regardless of circumstances. Although the teacher's passing undoubtedly impacted the whole school it is noteworthy that the fourth grade class did no better than the third grade class in the language portion of the exam and made a poorer showing than the third graders on the math portion.

III. Recommended Decision

The Board's Accountability Category calculation for Dillsboro Elementary School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Neither the statute nor administrative rule provide for a student to be excluded from the Accountability Calculations due to personal issues. Thus the Board's category placement of a "B" was proper and should be sustained.

DATE: December 14, 2018

/s/ Gordon E. White, 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) 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify on December 14, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Gordon E. White, Hearing Officer

Sam Melton, School Representative
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860443

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
INDIANA ACADEMY)	APPEAL PURSUANT TO
(SCHOOL # B190),	)	511 IAC 6.2-10-11
)	
PETITIONER)	

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

I. Reason for Appeal

Indiana Academy appeals its 2017-2018 category placement of a “D” grade (60.4 points) asserting that the annual assessment data does not accurately reflect the school’s performance. Specifically, the school asserted that: 1) it received a lower accountability score than last year, despite marked academic growth and Grade 10 ISTEP improvement; and 2) its small student body has a disproportionate impact on its college and career readiness (CCR) data.

II. Findings of Fact and Conclusions of Law

1. Indiana Academy is an accredited nonpublic school located in Cicero, Indiana.
2. Indiana 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 outlined in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d), the accountability category of Indiana Academy shall be based on the performance, growth, and multiple measures domains.
5. It is possible to show improvement in proficiency rates and see a decrease in growth scores given the way growth is calculated.

6. Pursuant to 511 IAC 6.2-10-6, the multiple measures domain shall consist of a college and career readiness indicator and a graduation rate indicator, which shall each make up 50% of the overall multiple measures domain score.

7. The CCR achievement score looks to those students in the cohort who graduated and demonstrated readiness for postsecondary education or workforce entrance. Pursuant to 511 IAC 6.2-10-6(b)(1)(C), a school's CCR achievement rate shall be based on the percentage of students who either passed an Advanced Placement exam, passed an International Baccalaureate exam, earned at least three college credit hours from an approved course, or obtained an approved industry certification.

8. Ind. Code § 20-30-10-4 requires each high school in the state to provide at least two dual credit courses or advanced placement courses for students.

9. The graduation rate score and the college and career readiness score are based on the graduation rate calculation outlined in Ind. Code § 20-26-13 *et seq.*

10. On September 24, 2018, Indiana Academy received an accountability category placement of "D" (60.4 points) for the 2017-2018 school year.

11. On October 8, 2018, Indiana Academy timely appealed the Board's 2017-2018 Accountability Calculation asserting that the annual assessment data does not accurately reflect the school's performance. Specifically, the school asserted that: 1) it received a lower accountability score than last year, despite marked academic growth and Grade 10 ISTEP improvement; and 2) its small student body has a disproportionate impact on its CCR data.

12. While Indiana Academy asserts that its accountability score dropped – even though the school experienced marked academic growth and improved Grade 10 ISTEP results –

it is possible to show improvement in proficiency rates and still see a decrease in growth scores due to the way growth is calculated.

13. Although Indiana Academy asserts that its small student body has a disproportionate impact on its CCR data, the CCR achievement rate was correctly calculated. The school had 22 students in the 2017 cohort who were eligible to be included in the CCR achievement rate, but only 1 of those students demonstrated college and/or career readiness as defined in 511 IAC 6.2-10-6.

III. Recommended Decision

The Board's Accountability Category calculation for Indiana Academy was correct. Neither statute nor administrative rule provides for an increase in letter grade for the reasons raised on appeal. Accordingly, the Board's calculation of a category placement of "D" (60.4 points) was proper and should be sustained.

DATE: December 12, 2018

/s/ Donald L. Hannah, 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 12, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Donald L. Hannah, Hearing Officer

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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
JACKSON CREEK MIDDLE SCHOOL)	APPEAL PURSUANT TO
(SCHOOL # 6223),	)	511 IAC 6.2-10-11
)	
PETITIONER)	
)	

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

I. Reason for Appeal

Jackson Creek Middle School (the “School”) appeals its 2017-2018 category placement of a “B” grade asserting that “multiple students were kicked out of the assessment multiple times due to errors caused on Pearson's end ... and this technology issue had a negative impact on these students' performance many became very anxious after starting and stopping their assessment multiple times.” The School has requested removal of the scores of students who encountered this problem and did not pass one or both parts of the test. The school has also requested that 2 students who took and “failed” both parts of the ISTAR assessment be considered proficient based on growth.

II. Findings of Fact and Conclusions of Law

1. Jackson Creek Middle School is a public school that is part Monroe County Community School Corp.

2. The School educates students in grades 7 - 8.

3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (the “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 Jackson Creek Middle School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

5. Specifically, each of the performance domain and the growth domain is made up of an English/language arts subject score and a mathematics subject score.

6. Each subject score is weighted at half of the overall domain score.

7. Only “eligible students” as defined by 511 IAC 6.2-10-1(15) are included in each subject area proficiency rate and participation rate, 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).

8. Pursuant to 511 IAC 6.2-10-1(32) participation means “to complete and obtain a valid test result for the mandatory statewide annual assessment.”

9. The School notified the Department of Education (the “Department”) that multiple students had been “kicked out of the test as the device was trying to access a program outside of the TESTNav ... I t was necessary for student to restart device and restart test, causing additional stress and anxiety prior to being able to complete the assessment.” There is no evidence that once restarted, further technical problems were encountered. Pearson, the Department’s vendor, visited the School and investigated. The events could not be replicated.

10. The School also notified the Department that other student reported lags or delays when loading questions “causing additional stress and anxiety prior to being able to complete the assessment”. There is no evidence that once restarted, further technical problems were encountered. Pearson, the Department’s vendor, visited the School and investigated. The events could not be replicated.

11. The School has expressed generalized concerns that the technical problems caused additional “stress and anxiety” causing certain students to not pass one or both parts of the test, but presented no articulable facts in support of removing those test results from the overall calculation.

12. Ind. Code § 20-32-5-3 prescribes the subject areas that must be tested under ISTEP; Ind. Code § 20-32-5-6 addresses scoring of the student test responses. Only the “parent may request a rescoring of a student's responses to an ISTEP program test, including a student's essay.” Ind. Code § 20-32-5-9 (a). There is no evidence that a parent asked that any response be rescored.

13. Two students who took ISTAR “failed” both parts. The School asserts they demonstrated growth and should be counted as “proficient”.

14. ISTAR is an “alternative assessment” under 511 IAC 6.2-10-1 (5). ISTAR results are not factored into the School’s growth calculation under 511 IAC 6.2-10-5, which is derived from ISTEP+ English/language arts and the mathematics indicators.

III. Decision

The Board's accountability category calculation for Jackson Creek Middle School was correct. The Board properly followed 511 IAC 6.2-10 in its calculations. Neither the statute nor the administrative rule provides for discretionary adjustments to the calculations for the performance domain or the growth domain. Thus, the Board's calculation of a category placement of a "B" was proper and should be sustained.

DATE: December 13, 2018

/s/ Susan W. Gard, 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 13, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Susan W. Gard, Hearing Officer

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Maggie Paino, Director of Accountability
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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
MADISON CONSOLIDATED JUNIOR HIGH SCHOOL) APPEAL PURSUANT TO
(SCHOOL NO. # 3313),) 511 IAC 6.2-10-11
)
PETITIONER)

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

I. Reason for Appeal

Madison Consolidated Junior High School appeals its 2017-2018 category placement of a “D” grade (69.9 points), asserting that technological issues during the ISTEP exam adversely affected the School’s participation rate.

II. Combined Findings of Fact and Conclusions of Law

1. Madison Consolidated Junior High School is a public school that is part of Madison Consolidated Schools located in Madison, Indiana.
2. Madison Consolidated Junior High School educates students in grades 5 through 8.
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. According to 511 IAC 6.2-10-3(d)(2)(A) and (3), the accountability category of Madison Consolidated Junior High School shall be based on the performance and growth domains, with each domain at half of the overall letter grade score.
5. Both 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 test result.

6. 511 IAC 6.2-10-4 outlines the calculation method for the performance domain, and indicates that points are awarded for the performance domain based on the product of the subject area pass rate and participation rate for grades 3 through 10.

7. Pursuant to 511 IAC 6.2-10-1(33), “participation rate” means the percentage of students enrolled in the tested grades at the time of test administrations who completed the mandatory statewide annual assessment.

8. On September 24, 2018, Madison Consolidated Junior High School received an accountability category placement of a “D” grade (69.9 points) for the 2017-2018 school year.

9. On October 8, 2018, Madison Consolidated Junior High School timely appealed the Board’s 2017-2018 Accountability Calculation asserting that technological issues during the ISTEP exam adversely affected the School’s participation rate.

10. The gist of the School’s appeal focuses on two separate technological issues. First the school asserts that 11 students in grades 6, 7, and 8 completed the mathematics assessment of the ISTEP exam, but afterwards were shown as “Test Not Taken.” The School immediately contacted the Department, and in a series of emails, dated March 9, 2018 through March 12, 2018, the Department advised the School to “mark the students’ online exam as ‘complete’ in Pearson’s online system so their tests could be scored.” The

Department did not provide the School with a breach form to fix this issue because the testing window was nearly closed and there was not enough time for the School to complete the breach form.¹

11. Upon further review, the Department confirmed that 10 of the 11 students received an undetermined result for the mathematics assessment of the ISTEP exam and were shown as “Test Not Taken.” One of the 11 students received a score because at least one item was responded to in each section.

12. Pearson’s Indiana 2017-18 Online Testing Guide states that, “‘Test Not Taken’ scenarios cannot be corrected.”² While the Hearing Officer is sympathetic to the School’s position and even if the Department could fix this issue—it would not change the School’s grade. The School has already received full credit for participation (100%) pursuant 511 IAC 6.2-10-4(c)(4)(A).

13. Second, the School asserts that two 5th grade students were unable to log-in to the English/language arts assessment and complete the remainder of their online exam. The Department, in emails, dated April 25, 2018 and May 4, 2018, and communication by telephone, instructed the School to transcribe the students’ answers from completed online sessions to paper-test booklets, and advised that the students needed to complete the remainder of their exams by pencil in the test booklet.

14. Pursuant to said instructions, Madison Consolidated Junior High School was

¹ There email correspondence shows that the testing window was nearly closed and there would not have been enough time for the School to complete and return the breach forms.

² Presumably this means that the School could not submit an “Underdetermined Results Resolution Clean-up Template” to correct these students’ status as “Test Not Taken.”

supposed to mark the online test as “Do Not Report.” However, Madison Consolidated Junior High School failed to do so and the paper exam was systematically marked as “Do Not Report” to prevent duplicate test scoring.³

15. Pearson’s Indiana 2017-18 Online Testing Guide sets out procedures where a school can clarify the status of a student’s test. That is, where a student has submitted two different exams (paper and online), the School can select which version of the student’s test should be counted. Madison Consolidated Junior High School, however, did not follow this procedure, which resulted in undetermined scores for these two 5th grade students.⁴

III. Recommended Decision

The Board’s Accountability Category placement for Madison Consolidated Junior High School is proper. The School received full credit for participation in math; thus, any impact attributed to the technology issues raised is negligible. The two 5th grade students’ online tests were correctly scored because Madison Consolidated Junior High School failed to rectify its error pursuant to the policies and procedures set out in Pearson’s Indiana 2017-18 Online Testing Guide. Therefore, the Board’s calculation of a category placement of “D” (69.9 points) should be sustained.

DATE: December 14, 2018

/s/ Travis D. Lovett, Hearing Officer

³ Per Pearson’s Indiana 2017-18 Online Testing Guide, “the initial test attempt will always be the one counted by the system, which can lead to the only partially finished test being scored instead of the completed test taken later.”

⁴ The Hearing Officer is sympathetic to the School’s position. The School was in a unique situation and had to quickly transcribe online answers to paper-test booklets and do so without error. The School’s error (not marking the online test as “Do Not Report”) is understandable. However, the School’s mistake could have been corrected, if the School would have followed the procedures set out in Pearson’s Online Testing Guide. “Corporations and schools are responsible for researching student test submissions in an Underdetermined status, verifying the Underdetermined status is accurate, and complete all fields in the data template and provide the document to Pearson to resolve the student records.”

NOTICE OF APPEAL RIGHT

Petitioner may file objections to the Hearing Officer’s Recommended Decision but must do so no later than ten (10) 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify on December 14, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Travis D. Lovett, Hearing Officer

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Maggie Paino, Director of Accountability
Indiana Department of Education
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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
MEDORA Jr & Sr HIGH SCHOOL)	APPEAL PURSUANT TO
SCHOOL (SCHOOL #3093),	)	511 IAC 6.2-10-11
)	
PETITIONER)	
)	

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

I. Reason for Appeal

Medora Jr & Sr High School appeals its 2017-2018 category placement of a “D” grade (66.4 points) asserting that 511 IAC 6.2-10-5(b)(2)(C) was incorrectly interpreted to require forty (40) students in grade 10 to calculate the growth domain and that the correct interpretation would be forty (40) students in grades 7 through 10. With the suggested interpretation, Medora Jr & Sr High School would receive growth domain points for grades 10 through 12.

II. Combined Findings of Fact and Conclusions of Law

1. Medora Jr & Sr High School is a public school that is a part of the Medora Community School Corporation.
2. Medora 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(c), the accountability category of Medora 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. *See* 511 IAC 6.2-10-3(d)(2) through (4).

5. Pursuant to 511 IAC 6.2-10-3(d)(1)(A) and (B), the two grade spans for associated data are: grade 3 through grade 8; and, grade 9 through grade 12.

6. 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).

7. “Growth domain” is defined as “the points awarded for scores of an eligible student on the mandatory statewide annual assessment administered in the accountable year, as compared with the scores of the same eligible student on the mandatory statewide annual assessment administered during the school year immediately preceding the accountable year.” *See* 511 IAC 6.2-10-1(24).

8. Pursuant to 511 IAC 6.2-10-5(b)(2) and (c)(2), a school must have at least 40 eligible students in an accountable year to calculate a growth domain score. If a school does not have at least 40 eligible students in the accountable year then the school’s growth domain shall be based on the results of a cumulative aggregate of eligible students from prior school years. If after aggregating all years of available data, a school is unable to have at least 40 eligible students then the school will not receive a growth domain score because data is not available. 511 IAC 6.2-10-5(b)(1) and (c)(1).

9. The “cumulative aggregate” is the number of eligible students in the accountable year and in each school year immediately preceding the accountable year until the minimum student count necessary to award points under this rule is reached. *See* 511 IAC 6.2-10-1(13).

10. On September 24, 2018, Medora Jr & Sr High School received an accountability category placement of a “D” (66.4 points) for the 2017-2018 school year.

11. On October 8, 2018, Medora Jr & Sr High School timely appealed the Board’s 2017-2018 Accountability Calculation stating that 511 IAC 6.2-10-5(b)(2)(C) was incorrectly interpreted to require forty (40) students in grade 10 to calculate the growth domain and that the correct interpretation would be forty (40) students in grades 7 through 10. With the suggested interpretation, Medora Jr & Sr High School would receive growth domain points for grades 10 through 12.

12. During the 2017-2018 school year, Medora Jr & Sr High School had eight (8) eligible students in grade 10 with growth scores. 511 IAC 6.2-10-5(b)(2)(C) and (c)(2)(C) required the incorporation of eligible students from the 2016-2017 school year—the first year for which growth could be calculated for grade 10 in this school—which added fourteen (14) students to the calculation. The cumulative aggregate of eligible students for the grade 10 growth domain calculation was thus only twenty-two (22) students. Therefore, grade 10 could not be included in the school’s growth domain score because it did not meet the minimum number of students required to calculate a statistically valid and reliable score.

13. Contrary to the school’s interpretation, the forty (40) eligible student benchmark in 511 IAC 6.2-10-5(b)(2) and (c)(2) must be drawn, in this instance, from only grade 10 and not from any other grades in the school. The definition of “eligible student” requires that the student was tested on the mandatory statewide annual assessment in the accountable year. Students in

grades 7 and 8 would not have taken the 10th grade statewide annual assessment, so those scores could not be used to calculate the growth domain. *See* 511 IAC 5-2-3(b) (stating the appropriate topics for ISTEP testing in the particular grades). Only by looking to years past for prior 10th grade statewide annual assessment scores, in this instance the 2016-2017 school year, could a “cumulative aggregate” be determined, as that term is defined by rule.

14. Moreover, the grade spans are specifically divided between grades 3 through 8, and grades 9 through 12 for pupil enrollment percentage. 511 IAC 6.2-10-3(d)(1). The pupil enrollment percentage would be inaccurate if the grades were comingled to assess the forty (40) eligible student benchmark for a growth domain calculation because grades 7 and 8 would be accounted for twice in the overall calculation.

15. As required, a cumulative aggregate was attempted for grade 10 by incorporating all eligible students from the 2016-2017 school year that took the 10th grade statewide annual assessment. The practical application is that this process included current 11th graders as part of the 10th grade statewide annual assessment.

16. 511 IAC 6.2-10-5(b)(1) and (c)(1) mandate that points shall be awarded “where test data are available.” Because test data was not available for grade 10 to calculate a growth domain, grade 10 was excluded from the calculation entirely.

17. Because a growth domain could not be calculated for grade 10, the overall accountability determination was based on all remaining domains, which were performance and multiple measures. *See* 511 IAC 6.2-10-3(d).

III. Recommended Decision

The Board's Accountability Category calculation for Medora Jr & Sr High School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Neither statute nor administrative rule provides for the inclusion of any grade other than grade 10, or its cumulative aggregate, in determining growth domain for grade 10. Thus, the Board's calculation of a category placement of a "D" (66.4 points) was proper and should be sustained.

DATE: December 7, 2018

/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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 7, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Jodi Kathryn Stein, Hearing Officer

Austin Skutnik
aabsher@medora.k12.in.us

Timothy A. Schultz, General Counsel
Indiana State Board of Education
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Maggie Paino, Director of Accountability
Indiana Department of Education
Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
NOTRE DAME CATHOLIC SCHOOL	)	APPEAL PURSUANT TO
(SCHOOL # C105),	)	511 IAC 6.2-10-11
)	
PETITIONER)	
)	

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

I. Reason for Appeal

Notre Dame Catholic School appeals its 2017-2018 category placement of an “B” grade (88.1 points) asserting that a “waiver” it had received, upon request, from the Indiana Department of Education (“Department”) allowed it to use paper assessments for grades 3-5 because of the number of computer devices available for student use during the Spring 2018 ISTEP+ testing window although grades 6-8 were able to use computer assessments. The appeal states that the lack of devices for computer assessments caused a significant impact on the passing scale score per grade with grades 6-8 scoring significantly higher than grades 3-5 thus negatively impacting the school with something that should not be looked upon as a failure of the students and staff. Additional detail concerning the issues was included in Notre Dame Catholic School’s appeal.

II. Findings of Fact and Conclusions of Law

1. Notre Dame Catholic School is a state accredited nonpublic school and participates in Indiana’s choice scholarship program.
2. Notre Dame Catholic School educates students in grades pre-kindergarten through 8.

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 (3), the accountability category of Notre Dame Catholic School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

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. Pursuant to 511 IAC 6.2-10-1(32) participation means “to complete and obtain a valid test result for the mandatory statewide annual assessment.”

7. 511 IAC 6.2-10-4(b)(4) and (c)(4) indicate that the proficiency rate shall be multiplied by the actual participation rate unless the participation rate is greater than or equal to 95.0%. In the instance that the participation rate is greater than or equal to 95.0 percent, the proficiency rate shall be multiplied by 100.0%.

8. On September 24, 2018, Notre Dame Catholic School received an accountability category placement of a “B” (88.1 points) for the 2017-2018 school year.

9. On October 5, 2018, Notre Dame Catholic School timely appealed the Board’s 2017-2018 Accountability Calculation stating that it had received a “waiver”, upon request, from

the Department allowing it to use paper assessments for grades 3-5 because of the number of computer devices available for student use during the Spring 2018 ISTEP+ testing window although grades 6-8 were able to use computer assessments. The appeal states that the lack of devices for computer assessments caused a significant impact on the passing scale score per grade with grades 6-8 scoring significantly higher than grades 3-5 thus negatively impacting the school with something that should not be looked upon as a failure of the students and staff. Additional detail concerning the issues was included in Notre Dame Catholic School's appeal.

10. As long as the students meet the definition of eligible student under 511 IAC 6.2-10-1(15), they must be included in the calculations regardless of mode of the examination. "Growth domain" as defined in 511 IAC 6.2-10-1(24) specifically means points "awarded for scores of an eligible student on the mandatory statewide annual assessment" which is ISTEP+ established in Ind. Code § 20-32-5.

11. There is nothing that mandates computer or paper testing only that there be "the mandatory statewide annual assessment" to participate as defined in 511 IAC 6.2-10-1(32). The Department allowed Notre Dame Catholic School to use paper examinations for grades 3 to 5 to address the school's problem with sufficient devices. As it has stated, the Department completes item-level and form-level analysis to ensure testing mode does not compromise student performance and the process used to formalize test construction ensures comparability. There has been nothing presented to substantiate that the Department's approach does not do what the Department says it does, ensure valid student results. Although the grades were lower for the grades that took a paper examination, it does not necessarily follow that the paper examination was the reason.

12. Notre Dame Catholic School also suggests that had more rescoring been done the result would have been more growth points. Although this is speculative, Ind. Code § 20-32-5-9(a) only gives the right to request regrading to the parents of students and not to the school.

13. Notre Dame Catholic School stated that it has a significantly lower amount of enrolled students compared to other schools putting it as a disadvantage. However, according to the Department's records, it had 117 eligible students for performance and 99 eligible students for growth. Under 511 IAC 6.2-10-4 there must be at least thirty eligible students for the performance domain and under 511 IAC 6-2-10-5 there must be at least forty eligible students for the growth domain. Notre Dame Catholic School therefore is more than double the size for the performance domain and the growth domain.

14. Therefore, there is no basis to change Notre Dame Catholic School's category placement of "B" with 88.1 points.

III. Recommended Decision

The Board's Accountability Category calculation for Notre Dame Catholic School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Students who met the definition of "eligible student" took ISTEP+ through an appropriate testing mode for the statewide annual assessment. Notre Dame Catholic School had sufficient students for the performance domain and growth domain and there is no opportunity for rescoring except for a parent's request. Thus, the Board's calculation of a category placement of a "B" (88.1 points) was proper and should be sustained.

DATE: December 12, 2018

/s/ James F. Schmidt, Hearing Officer

NOTICE OF APPEAL RIGHT

Parties 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 12, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ James F. Schmidt, Hearing Officer

Natasha Magnuson, School Representative
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Timothy A. Schultz, General Counsel
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Maggie Paino, Director of Accountability
Indiana Department of Education
Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
QUEEN OF ALL SAINTS	)	APPEAL PURSUANT TO
SCHOOL (SCHOOL # C110),	)	511 IAC 6.2-10-11
)	
PETITIONER)	
)	

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

I. Reason for Appeal

Queen of All Saints School appeals its 2017-2018 category placement of a “C” grade (79.6 points) by requesting that its growth domain score be recalculated to give points for five (5) new students who do not have test scores from the previous year by instead comparing these students’ scores to the state average.

II. Findings of Fact and Conclusions of Law

1. Queen of All Saints School is a state accredited nonpublic school located in Michigan City, Indiana.
2. Queen of All Saints School educates students in prekindergarten through grade 8.
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 outlined in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) and (3), the accountability category of Queen of All Saints School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

5. Pursuant to 511 IAC 6.2-10-4, the calculation for the performance domain is based on the product of the subject area pass rate and participation rate. The subject area scores of English/language arts and mathematics are then weighed equally to yield the overall performance domain score.

6. Pursuant to 511 IAC 6.2-10-1(24) the growth domain is based on the cumulative points awarded for the growth scores of all eligible students on the mandatory statewide annual assessment.

7. Pursuant to 511 IAC 6.2-10-5, the growth domain shall consist of an English/language arts indicator and a mathematics indicator.

8. Point values are assigned to each prior year status and movement type contained in the growth proficiency table under 511 IAC 6.2-10-2. In order to determine the type of movement a student made, a student growth percentile is identified for the student. This percentile is determined by identifying all students in the state who were similarly situated in the prior school year and then ranking that cohort of students based on their current year performance on the assessment.

9. In order to receive a growth score, a student must have two consecutive years of valid test results. Growth points are awarded to individual students based on the type of movement made from the prior year. A student may demonstrate low, typical, or high movement.

10. On September 24, 2018, Queen of All Saints School received an accountability category placement of “C” (79.6 points) for the 2017-2018 school year. The calculation was as follows:

Performance Domain Score		
1. English/language arts score		
Pass Rate	74.3%	74.3 * 1 = 74.3
Participation Rate	99.0%	

2. Mathematics score		
Pass Rate	53.5%	53.5 * 1 = 53.5
Participation Rate	100.0%	
3. Total Performance Domain Score	$\frac{74.3 + 53.5}{2} = 63.9$	

Growth Domain Score		
1. English/language arts score		
Top 75% growth	98.7	$\frac{98.7 + 98.8}{2} = 98.8$
Bottom 25% growth	98.8	
2. Mathematics score		
Top 75% growth	87.7	$\frac{87.7 + 95.2}{2} = 91.5$
Bottom 25% growth	95.2	
3. Total Growth Domain Score	$\frac{98.8 + 91.5}{2} = 95.2$	

Overall Accountability Calculation		
Performance Domain	Growth Domain	Overall Category
63.9 * .50 = 32	95.2 * .50 = 47.6	32 + 47.6 = 79.6

11. On October 8, 2018, Queen of All Saints School timely appealed the Board’s 2017-2018 Accountability Calculation by requesting that five (5) of its new students be given growth points by comparing their performance to the state average.

12. Growth domain, as defined in 511 IAC 6.2-10-1(24), does not provide a method for calculating growth points for a student by comparing a student’s score on the statewide annual assessment to the state average. Growth points may only be calculated by comparing a student’s score on the current year’s assessment to their score on the prior year’s assessment based on whether the student made low, typical, or high movement.

III. Recommended Decision

The Board’s Accountability Category calculation for Queen of All Saints School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Growth points may only

be calculated using an eligible student's score from the immediately preceding school year. Therefore, growth points cannot be calculated for the five (5) students who did not have a score on the statewide annual assessment in the prior year.

DATE: December 12, 2018

/s/ Stephanie Mullaney 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 12, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Stephanie Mullaney, Hearing Officer

Marie Arter, School Representative
principal@qas-school.org.

Timothy A. Schultz, General Counsel
Indiana State Board of Education
Email: TSchultz1@sboe.in.gov

Maggie Paino, Director of Accountability
Indiana Department of Education
Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
St. MATTHEW CATHEDRAL SCHOOL	)	APPEAL PURSUANT TO
(SCHOOL # D285),	)	511 IAC 6.2-10-11
)	
PETITIONER)	
)	

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

I. Reason for Appeal.

St. Matthew Cathedral School (the “School”) asserts that up to 15 students did not receive scores for their ISTEP language arts in the spring of 2017 because of technical problems or server interruptions. The School contends that as a result, the ISTEP scores in the spring of 2018 reflect no growth in these students, presenting an inaccurate picture of the school and negatively reflecting its A-F accountability report card. The Schools asks that some alternative measurement tool (NWEA RIT scores, or an average growth score from the previous year) be used as a basis for the growth component for the 2017-2018 school year for these specific students.

II. Findings of Fact and Conclusions of Law

1. Saint Matthew Cathedral School (the “School”) is a parochial school that is part of the Diocese of Fort Wayne – South Bend Schools.
2. The School educates students in grades 3 - 8.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (the “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 the School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

5. Each subject score is weighted at half of the overall domain score.

6. The School did not submit an audit or appeal request for its 2016-2017 accountability determinations. All incidents reported by the School to the vendor for the 2016-2017 administration of the ISTEP+ assessment were resolved.

7. "Growth domain" is specifically defined in 511 IAC 6.2-10-1 (24):

(24) "Growth domain" means the points awarded for scores of an eligible student on the mandatory statewide annual assessment administered in the accountable year, as compared with the scores of the same eligible student on **the mandatory statewide annual assessment administered during the school year immediately preceding the accountable year.**

(emphasis added).

8. DOE rules do not permit any comparator other than "mandatory statewide annual assessment administered during the school year immediately preceding" to be used in calculating the growth domain for the following year.

III. Decision

The Board's accountability category calculation for St. Matthew Cathedral School was correct. Neither the statute nor the administrative rule provides for using an alternate growth comparator for the school year immediately preceding the accountable year.

DATE: January 16, 2019

/s/ Susan W. Gard, 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on January 16, 2019, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Susan W. Gard, Hearing Officer

Gianna Marie Webber
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Timothy A. Schultz, General Counsel
Indiana State Board of Education
Email: TSchultz1@sboe.in.gov

Maggie Paino, Director of Accountability
Indiana Department of Education
Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
SPENCER ELEMENTARY SCHOOL	)	APPEAL PURSUANT TO
(SCHOOL # 6617)	)	511 IAC 6.2-10-11
)	
PETITIONER)	
)	

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

I. Reason for Appeal

Spencer Elementary School (the “School”) appeals the exclusion of 3 specific students in its 2017-2018 Student Centered Accountability calculations. On October 8, the School availed itself of the opportunity to correct data errors before the Indiana Department of Education (“DOE”) presented the School’s A-F grade. In particular, it identified 6 students that it contends should have been included in the School’s Accountability calculations. On October 12, and based on evidence available to it at the time, DOE accepted that 3 of the students should have been included in the School’s A-F calculations. DOE found there was insufficient evidence regarding the other 3 students and did not include their test results in the School’s Accountability calculation. The School has submitted additional documentation supporting its contention that the 3 excluded students should be included in the Accountability calculations.

II. Findings of Fact and Conclusions of Law

1. The School is a public school that is part of Spencer-Owen Community Schools
2. The School educates students in grades 3 through 8.
3. Pursuant to Ind. Code § 20-31-8-4, the Indiana State Board of Education (the “Board”) shall annually place each school in a category or designation of school performance based on the

metrics outlined in 511 IAC 6.2-10. 511 IAC 6.2-10-3 sets forth in detail how the letter grade of a school is determined.

4. Pursuant to 511 IAC 6.2-10-3(d) (2) and (3), the accountability category of the School is to be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

5. Only “eligible students” as defined by 511 IAC 6.2-10-1(15) are included in each subject area proficiency rate and participation rate, 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 October 8, 2018, the School submitted an A-F audit request through the DOE’s accountability portal asserting that 6 students who were “eligible students” had been erroneously been reported as eligible students in other schools. The School asked that these 6 students be added to the School’s roster and be included calculation of the School’s accountability report card.

7. On October 12, 2018, DOE notified the School that DOE found sufficient evidence that the School was the accountable school for 3 of the students (STNs [REDACTED] and [REDACTED]). One can infer that these 3 students were added to the School’s roster as eligible students and their test results included in calculations for the School’s Accountability report card.

8. On October 12, 2018, DOE found there was insufficient evidences to reclassify the other 3 students (STNs [REDACTED] and [REDACTED]), and their test results would not be included in calculations for the School’s Accountability report card.

9. On November 26, 2018, the School submitted a request for appeal through DOE's accountability portal providing additional documentation on the 3 students who were not reclassified (STNs [REDACTED] and [REDACTED]) and requesting that they be added to the School's roster and be included in the accountability calculations because they were in fact eligible students.

10. The evidence submitted on November 26, 2018 is sufficient to prove that the School was the accountable school for these 3 particular students (STNs [REDACTED] and [REDACTED]), each of whom was an eligible student under 511 IAC 6.2-10-1(15). The scores of these three students must be included the School's 2017-2018 Student Centered Accountability calculations.

III. Decision

DOE's accountability calculations for the School were not based on the results of all eligible students. The School's accountability scores should be recalculated to include the results of eligible students STNs [REDACTED] and [REDACTED]. While DOE's letter dated October 12, 2018 approved STNs [REDACTED] and [REDACTED] as eligible students, DOE should confirm that these students were in fact included in the current accountability calculation.

DATE: January 16, 2019

/s/ Susan W. Gard, 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on January 16, 2019 I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Susan W. Gard, Hearing Officer

Brittany Greene
brgreene@socs.k12.in.us

Timothy A. Schultz, General Counsel
Indiana State Board of Education
Email: TSchultz1@sboe.in.gov

Maggie Paino, Director of Accountability
Indiana Department of Education
Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
TEMPLETON ELEMENTARY SCHOOL	)	APPEAL PURSUANT TO
(SCHOOL NO. #6225),	)	511 IAC 6.2-10-11
)	
PETITIONER)	

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

I. Reason for Appeal

Templeton Elementary School appeals its 2017-2018 overall score of 76.4 points (category placement “C”), requesting that a number of student’s scores be removed from the accountability category calculation due to excessive absences, cognitive delays, and English learning issues. The school also requested that one student’s growth score be reevaluated.

II. Findings of Fact and Conclusions of Law

1. Templeton Elementary School is a public school that is part of Monroe County Community School Corporation.
2. Templeton Elementary School educates students in in pre-kindergarten through grade 6.
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 Templeton Elementary School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

5. Both 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 test result.

511 IAC 6.2-10-1(15).

6. 511 IAC 6.2-10-1(29) defines the “mandatory statewide annual assessment” as “the assessment required under IC 20-32-5-2 (ISTEP) and any alternatives to that assessment.”

7. Indiana provides for an alternative to the ISTEP for those students identified as having the most significant cognitive disabilities. Students identified by their special education case conference committees as having the most significant cognitive disabilities may take the ISTAR assessment as an alternative assessment to the ISTEP.

8. 511 IAC 6.2-10-4 outlines the calculation for the performance domain, and indicates that points are awarded for the performance domain based on the product of the subject area pass rate and participation rate on the mandatory annual assessment. The subject area scores of English/language arts and mathematics are then weighed equally to yield the overall performance domain score.

9. 511 IAC 6.2-10-5 outlines the calculation of the growth domain, and indicates that points are awarded for the growth domain based on the average growth scores of students performing in the top 75% of students at the school in the respective

subject areas and of students performing in the bottom 25% of students at the school in the respective subject areas.

10. Pursuant to 511 IAC 6.2-10-1(24) and 511 IAC 6.2-10-5, the growth domain is based on the cumulative points awarded for the growth scores of all eligible students on the mandatory statewide assessment.

11. In order to receive a growth score, a student must have two consecutive years of valid test results.

12. Growth calculations do not consider ISTEP and ISTAR results collectively; rather, growth scores can only be calculated based on analysis of ISTEP results separate from ISTAR results. Roughly one percent of the student population in Indiana is assessed on the ISTAR assessment. This does not provide for enough students from a statistical standpoint to yield valid growth scores for students taking the ISTAR assessment. Therefore, growth scores are not generated for students who take the ISTAR assessment, and these students are not included in the growth domain calculations.

13. Growth points are awarded to individual students who take the ISTEP based on the type of movement that student made from the prior to current school year. A student may demonstrate low, typical, or high movement.

14. Low movement means that the student did not make the expected growth from year to year.

15. Typical movement means the student met the expected growth from year to year.

16. High movement means the student exceeding the expected growth from year to year.

17. Point values are assigned to each prior year status and movement type contained in the growth proficiency table under 511 IAC 6.2-10-2. In order to determine the type of movement a student made, a student growth percentile is identified for the student. This percentile is determined by identifying all students in the state who were similarly situated in the prior school year and then ranking that cohort of students based on their current year performance on the assessment.

18. Templeton Elementary School received an accountability score of 76.4 points and a category placement of “C” for the 2017-2018 school year. The calculation was as follows:

Performance Domain Score = 57.8 points

English/language arts score: 57.1 points

Pass rate: 57.1%

Participation rate: 99.6%

Mathematics score: 58.4 points

Pass rate: 58.4%

Participation rate: 99.6%

Growth Domain Score = 94.9 points

English/language arts score: 85.8 points

Top 75% growth: 94.1 points

Bottom 25% growth: 77.4 points

Mathematics score: 103.9 points

Top 75% growth: 105.4 points

Bottom 25% growth: 102.4 points

Overall Score = 76.4 points (C)

19. On October 7, 2018, Templeton Elementary School timely appealed the Board’s 2017-2018 Accountability Calculation for reasons detailed below.

20. The school requested that the scores of seven students who did not pass the English/language arts or mathematics subject areas be removed from the accountability calculations due to excessive absences. The students were absent from 15 to 38 days due to medical issues, homelessness, and other issues.

21. Each of the students was enrolled in school for more than 162 days during the 2017-2018 school year.

22. The students were “eligible students” as defined in 511 IAC 6.2-10-1(15).

23. The school also requested removal of one student who did not pass the math subject area of the ISTAR. The student has cognitive delays, and he has made significant progress in math skills.

24. The ISTAR is a mandatory statewide annual assessment, and the student is an “eligible student” as defined in 511 IAC 6.2-10-1(15).

25. 511 IAC 6.2-10-4 provides that the performance domain is calculated based on the passing rates for the English/language arts and mathematics portions of the mandatory statewide annual assessment. Neither the statute nor the rule allows other measures of student performance to be used in the calculation of the performance domain or the category placement.

26. The school requested growth points for a fifth grade student who passed the ISTEP math subject area after not passing in fourth grade. The student received no growth points. The school did not challenge the accuracy of the growth calculation.

27. It is possible to show improvement in proficiency rates and see a decrease in growth scores given the way growth is calculated.

28. The school requested that eight students with limited English proficiency be removed from the accountability category calculation. The students did not receive formal schooling in their home countries in their native language. The school cited research showing that students with little or no formal schooling who arrived in the

United States before the age of 8 took 7 to 10 years to reach grade-level norms in English language literacy.

29. There is no evidence that the students with limited English proficiency had been enrolled in schools in the United States for less than twelve months. The students were “eligible students” as defined in 511 IAC 6.2-10-1(15).

III. Recommended Decision

The Board’s Accountability Category calculation for Templeton Elementary School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Neither statute nor administrative rule provides for any enrolled and eligible student to be excluded from the Accountability Calculations due to medical or family issues that affect attendance. Nor does the statute or rule provide for alternative performance measures for students with cognitive delays, even though test scores might not reflect the student’s progress in meeting education goals. Finally, limited English proficiency is a basis for excluding a student’s scores from the Accountability Calculation only if the student has been enrolled in school in the United States for less than twelve months. Thus, the Board’s calculation of a score of 76.4 points and a category placement of “C” was proper and should be sustained.

DATE: December 11, 2018

/s/ Donna Stolz Sembroski, 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 11, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Donna Stolz Sembroski, Hearing Officer

Angela Harlan, School Representative

aharlan@mccsc.edu

Timothy A. Schultz, General Counsel

Indiana State Board of Education

PH: 317-233-4088

Email: TSchultz1@sboe.in.gov

Maggie Paino, Director of Accountability

Indiana Department of Education

PH: 317- 232-9185|

Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
TRI-NORTH MIDDLE SCHOOL	)	APPEAL PURSUANT TO
(SCHOOL NO. #6170),	)	511 IAC 6.2-10-11
)	
PETITIONER)	

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

I. Reason for Appeal

Tri-North Middle School appeals its 2017-2018 overall score of 86.2 points (category placement “B”), requesting that several student’s scores be removed from the accountability category calculation due to excessive absences and personal family issues, and that other students with cognitive delays be assessed as passing because they made progress in meeting their educational goals.

II. Findings of Fact and Conclusions of Law

1. Tri-North Middle School is a public school that is part of Monroe County Community School Corporation.
2. Tri-North Middle School educates students in grades 7 and 8
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 Tri-North Middle School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

5. Both 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 test result.

511 IAC 6.2-10-1(15).

6. 511 IAC 6.2-10-1(29) defines the “mandatory statewide annual assessment” as “the assessment required under IC 20-32-5-2 (ISTEP) and any alternatives to that assessment.”

7. Indiana provides for an alternative to the ISTEP for those students identified as having the most significant cognitive disabilities. Students identified by their special education case conference committees as having the most significant cognitive disabilities may take the ISTAR assessment as an alternative assessment to the ISTEP.

8. 511 IAC 6.2-10-4 outlines the calculation for the performance domain, and indicates that points are awarded for the performance domain based on the product of the subject area pass rate and participation rate on the mandatory annual assessment. The subject area scores of English/language arts and mathematics are then weighed equally to yield the overall performance domain score.

9. 511 IAC 6.2-10-5 outlines the calculation of the growth domain, and indicates that points are awarded for the growth domain based on the average growth scores of students performing in the top 75% of students at the school in the respective subject areas and of students performing in the bottom 25% of students at the school in the respective subject areas.

10. Pursuant to 511 IAC 6.2-10-1(24) and 511 IAC 6.2-10-5, the growth domain is based on the cumulative points awarded for the growth scores of all eligible students on the mandatory statewide assessment.

11. In order to receive a growth score, a student must have two consecutive years of valid test results.

12. Growth calculations do not consider ISTEP and ISTAR results collectively; rather, growth scores can only be calculated based on analysis of ISTEP results separate from ISTAR results. Roughly one percent of the student population in Indiana is assessed on the ISTAR assessment. This does not provide for enough students from a statistical standpoint to yield valid growth scores for students taking the ISTAR assessment. Therefore, growth scores are not generated for students who take the ISTAR assessment, and these students are not included in the growth domain calculations.

13. Growth points are awarded to individual students who take the ISTEP based on the type of movement that student made from the prior to current school year. A student may demonstrate low, typical, or high movement.

14. Low movement means that the student did not make the expected growth from year to year.

15. Typical movement means the student met the expected growth from year to year.

16. High movement means the student exceeding the expected growth from year to year.

17. Point values are assigned to each prior year status and movement type contained in the growth proficiency table under 511 IAC 6.2-10-2. In order to determine the type of movement a student made, a student growth percentile is identified for the student. This

percentile is determined by identifying all students in the state who were similarly situated in the prior school year and then ranking that cohort of students based on their current year performance on the assessment.

18. Tri-North Middle School received an accountability score of 86.2 points and a category placement of “B” for the 2017-2018 school year. The calculation was as follows:

Performance Domain Score = 71.3 points

English/language arts score: 80.6 points

Pass rate: 80.6%

Participation rate: 98.3%

Mathematics score: 61.9 points

Pass rate: 61.9%

Participation rate: 98.9%

Growth Domain Score = 101.0 points

English/language arts score: 113.1 points

Top 75% growth: 103.0 points

Bottom 25% growth: 123.1 points

Mathematics score: 88.8 points

Top 75% growth: 81.1 points

Bottom 25% growth: 96.5 points

Overall Score = 86.2 points (B)

19. On October 7, 2018, Tri-North Middle School timely appealed the Board’s 2017-2018 Accountability Calculation requesting that five students be removed from the calculation due to lost instructional time due to excessive absences, and that four students be removed due to cognitive delays.

20. Five students who did not pass the English/language arts or mathematics subject areas were absent from 19 to 22 days due to various issues including medical concerns, homelessness, and other issues.

21. Each of the students was enrolled in school for more than 162 days during the 2017-2018 school year.

22. The students were “eligible students” as defined in 511 IAC 6.2-10-1(15).

23. The school also requested removal of four students who did not pass the math subject area of the ISTAR. The four students have moderate to severe cognitive delays. The students are working on functional life skills, and each has made progress in learning skills.

24. The students were tested on the ISTAR, the mandatory statewide annual assessment, and they were “eligible students” as defined in 511 IAC 6.2-10-1(15).

25. 511 IAC 6.2-10-4 provides that the performance domain is calculated based on the passing rates for the English/language arts and mathematics portions of the mandatory statewide annual assessment. Neither the statute nor the rule allows other measures of student performance to be used in the calculation of the performance domain or the category placement.

III. Recommended Decision

The Board’s Accountability Category calculation for Tri-North Middle School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Neither statute nor administrative rule provides for any enrolled and eligible student to be excluded from the Accountability Calculations due to personal, family, or attendance issues. Nor does the statute or rule provide for alternative performance measures for students with severe cognitive delays, even though test scores might not reflect the student’s progress in meeting education goals. Thus, the Board’s calculation of a score of 86.2 points and a category placement of “B” was proper and should be sustained.

DATE: December 11, 2018

/s/ Donna Stolz Sembroski, 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 11, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Donna Stolz Sembroski, Hearing Officer

Angela Harlan, School Representative

aharlan@mccsc.edu

Timothy A. Schultz, General Counsel

Indiana State Board of Education

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Maggie Paino, Director of Accountability

Indiana Department of Education

PH: 317- 232-9185|

Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
UNIONVILLE ELEMENTARY SCHOOL	)	APPEAL PURSUANT TO
(SCHOOL # 6123),	)	511 IAC 6.2-10-11
)	
PETITIONER)	
)	

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

I. Reason for Appeal

Unionville Elementary School appeals its 2017-2018 category placement of an “A” grade (92.8 points) asserting that two students, who had an excessive number of absences due to health concerns, were included, that the results of 20 students in English/language arts performance and growth calculations and 21 students from math performance and growth calculations should be removed due to the teacher being on maternity leave and replaced by a long-term substitute during the school year, and that 14 students who received zero points for growth in English/language arts and 13 students who received zero points for growth in math should receive growth points based on other assessment administered at Unionville Elementary School during the 2017-2018 school year that demonstrated growth.

II. Findings of Fact and Conclusions of Law

1. Unionville Elementary School is a public school that is a part of the Monroe County Community School Corporation.
2. Unionville Elementary School educates students in grades pre-kindergarten through 6.

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 (3), the accountability category of Unionville Elementary School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

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. Pursuant to 511 IAC 6.2-10-1(32) participation means “to complete and obtain a valid test result for the mandatory statewide annual assessment.”

7. 511 IAC 6.2-10-4(b)(4) and (c)(4) indicate that the proficiency rate shall be multiplied by the actual participation rate unless the participation rate is greater than or equal to 95.0%. In the instance that the participation rate is greater than or equal to 95.0 percent, the proficiency rate shall be multiplied by 100.0%.

8. On September 24, 2018, Unionville Elementary School received an accountability category placement of an “A” (92.8 points) for the 2017-2018 school year.

9. On October 7, 2018, Unionville Elementary School timely appealed the Board’s 2017-2018 Accountability Calculation stating that two students, who had an excessive number of

absences due to health concerns, were included, that the results of 20 students in English/language arts performance and growth calculations and 21 students from math performance and growth calculations should be removed due to the teacher being on maternity leave and replaced by a long-term substitute during the school year, and that 14 students who received zero points for growth in English/language arts and 13 students who received zero points for growth in math should receive growth points based on other assessment administered at Unionville Elementary School during the 2017-1018 school year that demonstrated growth.

10. Based on the Department of Education’s records, the two students, who were identified as having an excessive number of absences due to health concerns, both were enrolled 180 days with one in attendance for 158.5 days and the other 150 days. Both therefore are eligible students as defined in 511 IAC 6.2-10-1(15) because they were enrolled for at least 162 days. It is enrollment time and not attendance time that is determinative under the rule. Therefore, these students must be included in the calculations.

11. Regardless of whether or not students underperformed, applicable law does not provide for a different approach because a regular teacher was on maternity leave and replaced by a long-term substitute as was identified as being the case for part of the 2017-2018 school year. As long as the students meet the definition of eligible student under 511 IAC 6.2-10-1(15), they must be included in the calculations regardless of the status of the teacher.

12. Although Unionville Elementary School also chose to assess student growth at the local level by another means and that assessment is reported to show improvement for fourteen students in English/language arts and thirteen students in math, “growth domain” as defined in 511 IAC 6.2-10-1(24) specifically means points “awarded for scores of an eligible student on the mandatory statewide annual assessment” which is ISTEP+. The use of other assessment methods

has no impact on the placement of a school in a category or description of school performance under Ind. Code § 20-31-8-4 and 511 IAC 6.2-10.

13. Therefore, there is no basis to change Unionville Elementary School’s category placement of “A” with 92.8 points.

III. Recommended Decision

The Board’s Accountability Category calculation for Unionville Elementary School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Students who met the definition of “eligible assessment” were properly included regardless of student absences and a teacher’s maternity leave, and ISTEP+, and not other assessment means, is required to be used in the calculations. Thus, the Board’s calculation of a category placement of an “A” (92.8 points) was proper and should be sustained.

DATE: December 10, 2018

/s/ James F. Schmidt, Hearing Officer

NOTICE OF APPEAL RIGHT

Parties 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 10, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ James F. Schmidt, Hearing Officer

Angela Harlan, School Representative
Email: aharlan@mccsc.edu

Timothy A. Schultz, General Counsel
Indiana State Board of Education
Email: TSchultz1@sboe.in.gov

Maggie Paino, Director of Accountability
Indiana Department of Education
Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
University Elementary School	)	APPEAL PURSUANT TO
(SCHOOL NO. #6226),	)	511 IAC 6.2-10-11
)	
PETITIONER)	

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

I. Reason for Appeal

University Elementary School appeals its 2017-2018 overall score of 92.4 points (category placement “A”), requesting that two students with cognitive delays be assessed as passing because they made progress in meeting their educational goals.

II. Findings of Fact and Conclusions of Law

1. University Elementary School is a public school that is part of Monroe County Community School Corporation.
2. University Elementary School educates students in grades pre-kindergarten through grade 6.
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 University Elementary School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

5. Both the performance domain and the growth domain are calculated based on students' scores for the English/language arts and mathematics portions of the mandatory statewide annual assessment.

6. 511 IAC 6.2-10-1(29) defines the "mandatory statewide annual assessment" as "the assessment required under IC 20-32-5-2 (ISTEP) and any alternatives to that assessment."

7. Indiana provides for an alternative to the ISTEP for those students identified as having the most significant cognitive disabilities. Students identified by their special education case conference committees as having the most significant cognitive disabilities may take the ISTAR assessment as an alternative assessment to the ISTEP.

8. 511 IAC 6.2-10-4 outlines the calculation for the performance domain, and indicates that points are awarded for the performance domain based on the product of the subject area pass rate and participation rate on the mandatory annual assessment. The subject area scores of English/language arts and mathematics are then weighed equally to yield the overall performance domain score.

9. 511 IAC 6.2-10-5 outlines the calculation of the growth domain, and indicates that points are awarded for the growth domain based on the average growth scores of students performing in the top 75% of students at the school in the respective subject areas and of students performing in the bottom 25% of students at the school in the respective subject areas.

10. Pursuant to 511 IAC 6.2-10-1(24) and 511 IAC 6.2-10-5, the growth domain is based on the cumulative points awarded for the growth scores of all eligible students on the mandatory statewide assessment.

11. In order to receive a growth score, a student must have two consecutive years of valid test results.

12. Growth calculations do not consider ISTEP and ISTAR results collectively; rather, growth scores can only be calculated based on analysis of ISTEP results separate from ISTAR results. Roughly one percent of the student population in Indiana is assessed on the ISTAR assessment. This does not provide for enough students from a statistical standpoint to yield valid growth scores for students taking the ISTAR assessment. Therefore, growth scores are not generated for students who take the ISTAR assessment, and these students are not included in the growth domain calculations.

13. University Elementary School received an accountability score of 92.4 points and a category placement of “A” for the 2017-2018 school year. The calculation was as follows:

Performance Domain Score = 83.9 points

English/language arts score: 84.8 points

Pass rate: 84.6%

Participation rate: 99.7%

Mathematics score: 83.0 points

Pass rate: 83.0%

Participation rate: 100.0%

Growth Domain Score = 100.8 points

English/language arts score: 100.5 points

Top 75% growth: 103.4 points

Bottom 25% growth: 97.6 points

Mathematics score: 101.1 points

Top 75% growth: 102.9 points

Bottom 25% growth: 99.3 points

Overall Score = 92.4 points (A)

14. On October 7, 2018, University Elementary School timely appealed the Board’s 2017-2018 Accountability Calculation requesting that two students be given a status of “pass” instead of “did not pass” on the ISTAR English/language arts and math

assessments. The request was based on evidence provided by the school that the students made significant progress and met individual goals.

15. 511 IAC 6.2-10-4 provides that the performance domain is calculated based on the passing rates for the English/language arts and mathematics portions of the mandatory statewide annual assessment. Neither the statute nor the rule allows other measures of student performance to be used in the calculation of the performance domain or the category placement.

III. Recommended Decision

The Board's Accountability Category calculation for University Elementary School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Neither statute nor administrative rule provides for alternative performance measures for students with severe cognitive delays, even though test scores might not reflect the student's progress in meeting education goals. Thus, the Board's calculation of a score of 92.4 points and a category placement of "A" was proper and should be sustained.

DATE: December 11, 2018

/s/ Donna Stolz Sembroski, 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on December 11, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Donna Stolz Sembroski, Hearing Officer

Angela Harlan, School Representative

aharlan@mccsc.edu

Timothy A. Schultz, General Counsel

Indiana State Board of Education

PH: 317-233-4088

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Maggie Paino, Director of Accountability

Indiana Department of Education

PH: 317- 232-9185|

Email: mpaino@doe.in.gov

**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
WARREN G. HARDING ELEMENTARY SCHOOL) APPEAL PURSUANT TO
(SCHOOL # 4453),) 511 IAC 6.2-10-11
PETITIONER)

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

I. Reason for Appeal

Warren G. Harding Elementary School appeals its 2017-2018 category placement of a “D” grade (68.6 points), asserting that several students should be removed from the accountability calculation due to excessive absences and that one be added.

II. Combined Findings of Fact and Conclusions of Law

1. Warren G. Harding Elementary School is a public school that is part of the School City of Hammond located in Hammond, Indiana.
2. Warren G. Harding Elementary School educates students in prekindergarten through grade 5.
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 Warren G. Harding Elementary School shall be based on the performance and

growth domains with each domain weighed at half the overall letter grade score.

5. Both 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 test result.

511 IAC 6.2-10-1(15).

6. On September 24, 2018, Warren G. Harding Elementary School received an accountability category placement of a “D” grade for the school year 2017-2018 (68.6 points).
7. On October 4, 2018, Warren G. Harding Elementary School timely appealed the Board’s 2017-2018 Accountability Calculation, asserting that student [REDACTED] was enrolled at Warren Harding for 167 days but the student’s data was excluded. Students [REDACTED] and [REDACTED] were placed on homebound and school restrictions for “many days in 2017-18”. Student [REDACTED] was absent 34.5 days including 14 days of school exclusions in 2017 -18 for non-compliance with health records to be enrolled in SCH. Students [REDACTED] and [REDACTED] moved out of a school boundaries in the fall of 2017 and had significant absences due to the move. Student [REDACTED] was absent 29 days and tardy an additional 11 days in 2017-18. The student did not attend remediation. Student [REDACTED] was absent 17

days and tardy 7 additional days in 2017-18. The student did not attend remediation sessions. Student [REDACTED] was absent 28.5 days in 2017-18. [REDACTED] is allegedly a limited English proficiency (“LEP”) student and spent many days at medical appointments due to kidney problems. However, the school provided no evidence the student should be excluded based upon the LEP exclusion at 511 IAC 6.2-10-1(15)(C) Students [REDACTED] all had over 20 days of absences and they had additional days that they were tardy.

8. The Department of Education utilizes a standardized method of collecting data on attendance (DOE-AT). Schools submit the data directly to the DOE at the end of the school year and sign off on it to confirm its accuracy.
9. The DOE-AT shows that student [REDACTED] was not enrolled at Warren Harding for 162 days. It also shows that all the other students referenced above were enrolled for over 162 days. Other than the claim concerning student [REDACTED] the DOE-AT enrollment figures are also consistent with the supporting documentation submitted by the school.
10. Enrollment in school is the factor under 511 IAC 6.2-10-1(15)(A), not absences or alternative methods of providing educational services.

III. Recommended Decision

The Board’s Accountability Category calculation for Warren G. Harding Elementary School was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Neither the statute nor administrative rule provide for a student to be excluded from the Accountability Calculations due to personal issues, absences, or

alternative methods of providing educational services. Thus the Board's category placement of a "D" was proper and should be sustained.

DATE: December 14, 2018

/s/ Gordon E. White, 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) 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify on December 14, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Gordon E. White, Hearing Officer

Ray Liskey, School Representative
rgliskey@hammond.k12.in.us

Timothy A. Schultz, General Counsel
Indiana State Board of Education
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Maggie Paino, Director of Accountability
Indiana Department of Education
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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)
WEST JAY COUNTY MIDDLE SCHOOL) APPEAL PURSUANT TO
(SCHOOL NO. # 3285),	) 511 IAC 6.2-10-11
)
PETITIONER)

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

I. Reason for Appeal

West Jay County Middle School appeals its 2017-2018 category placement of a “C” grade (79.7 points), explaining that the school’s counselor inadvertently and incorrectly bubbled the “invalidated option” on a student’s enlarged printed ISTEP exam, and requests that this student’s test score be included in the Accountability Category calculation.

II. Combined Findings of Fact and Conclusions of Law

1. West Jay County Middle School is a public school part of Jay School Corporation located in Dunkirk, Indiana.
2. West Jay County Middle School educates students in grades 6 through 8.
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. According to 511 IAC 6.2-10-3(d)(2)(a) and (3), the accountability category of

West Jay County Middle School shall be based on the performance and growth domains, with each domain at half of the overall letter grade score.

5. Both 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 test result.

511 IAC 6.2-10-1(15).

6. 511 IAC 6.2-10-4 outlines the calculation method for the performance domain, and indicates that points are awarded for the performance domain based on the product of the subject area pass rate and participation rate for grades 3 through 10.

7. Pursuant to 511 IAC 6.2-10-1(33), “participation rate” means the percentage of students enrolled in the tested grades at the time of test administrations who completed the mandatory statewide annual assessment.

8. Pursuant to 511 IAC 6.2-10-1(33), “participation” means to complete and obtain a valid test result for the mandatory statewide annual assessment.

9. On September 24, 2018, West Jay County Middle School received an accountability category placement of a “C” grade (79.7 points) for the 2017-2018 school year.

10. On October 6, 2018, West Jay County Middle School timely appealed the Board’s 2017-2018 Accountability Category calculation, asserting that the school’s counselor inadvertently and incorrectly bubbled the “invalidated option” on a student’s

enlarged printed ISTEP exam, and requests that this student's test score be included in the Accountability Category calculation.

III. Recommended Decision

The Board's Accountability Category calculation for West Jay County Middle School was proper. The Department of Education appropriately excluded the student's test score from the Accountability Category calculation because the student was not an eligible student per 511 IAC 6.2-10-1(15)(d). Nor did the student "participate" as defined by 511 IAC 6.2-10-1(33). Therefore, the Board's calculation of a category placement of "C" (79.7 points) should be sustained.

DATE: December 14, 2018

/s/ Travis D. Lovett, 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) 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify on December 14, 2018, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Travis D. Lovett, Hearing Officer

Michael Crull, School Representative
mcrull@jayschools.k12.in.us

Timothy A. Schultz, General Counsel
Indiana State Board of Education
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**BEFORE THE INDIANA
STATE BOARD OF EDUCATION**

IN THE MATTER OF:)	
)	
WESTERN WAYNE ELEMENTARY)	APPEAL PURSUANT TO
(SCHOOL # 8971),	)	511 IAC 6.2-10-11
)	
PETITIONER)	
)	

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

I. Reason for Appeal

Western Wayne Elementary School appeals its 2017-2018 category placement, asserting that two students were not counted as “eligible students” despite the fact that they were enrolled for at least 162 days and otherwise met the definition of eligible student under 511 IAC 6.2-10-1(15).

II. Findings of Fact and Conclusions of Law

1. Western Wayne Elementary School is part of the Western Wayne School District located in Cambridge City, Indiana.
2. Western Wayne Elementary School educates students in pre-kindergarten through grade 5.
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 outlined in 511 IAC 6.2-10.
4. Pursuant to 511 IAC 6.2-10-3(d)(2) and (3), the accountability category of Western Wayne Elementary School shall be based on the performance and growth domains, with each domain weighted at half of the overall letter grade score.

5. The performance domain is made up of an English/language arts subject score and a mathematics subject score.

6. Each subject score is weighted at half of the overall performance domain score.

7. The subject score is the product of the subject area proficiency rate and the subject area participation rate.

8. Only “eligible students” as defined by 511 IAC 6.2-10-1(15) are included in each subject area proficiency rate and participation rate, which includes 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).

9. On September 24, 2018, Western Wayne Elementary School received an accountability category placement of “C” (79.4 points) for the 2017-2018 school year. The calculation was as follows:

Performance Domain Score		
1. English/language arts score		
Pass Rate	60.0%	60 * 1 = 60.0
Participation Rate	98.6%	
2. Mathematics score		
Pass Rate	57.1%	57.1 * 1 = 57.1
Participation Rate	99.1%	
3. Total Performance Domain Score	$\frac{60 + 57.1}{2} = 58.6$	

Overall Accountability Calculation		
Performance Domain	Growth Domain	Overall Category
58.6 * .50 = 29.3	100.1 * .50 = 50.1	29.3 + 50.1 = 79.4 “C”

10. On November 26, 2018, Western Wayne Schools appealed the Board's 2017-2018 Accountability Calculation stating that two (2) students should have been included as eligible students because they were enrolled for at least 162 days.

11. The Department utilizes data submitted by the School to determine whether a student has been enrolled for at least 162 days.

12. In its memorandum to the Hearing Officer, the Department represented that the School reported attendance data for Student [REDACTED] as follows: 11.5 days in attendance and 7.5 days of excused absences. The Department equated this to 19 days of enrollment.

13. In its memorandum to the Hearing Officer, the Department represented that the School reported attendance data for Student [REDACTED] as follows: 3.5 days in attendance and 4.5 excused absences. The Department equated this to 8 days of enrollment.

14. The School did not submit an audit request to the Department to address these two students as an error in the data originally sent to the Department.

15. The School uploaded seven (7) documents with its appeal. The Hearing Officer did not receive any additional evidence from the School.

16. For Student [REDACTED], the uploaded documents included attendance data from the STN Application Center (two documents contained duplicative information) and a document titled "Quick Lookup."

17. The STN Application Center document shows attendance data as represented by the Department in its memorandum. The "Quick Lookup" document shows 14 total absences and 4 tardies. Neither document demonstrates that Student [REDACTED] was enrolled for at least 162 days.

18. For Student [REDACTED], the uploaded documents included attendance information from PowerSchool (two documents contained duplicative information) and a “Quick Lookup” document.

19. The PowerSchool document shows 2.5 days of excused absences and 4 tardies, with additional entries that do not match any of the attendance codes listed at the bottom of the document. The School did not provide any clarifying information about what attendance information the document purported to represent. The “Quick Lookup” document shows 3 absences and 4 tardies. Neither document shows that Student [REDACTED] was enrolled for at least 162 days.

20. The uploaded documents also consisted of a document titled “WWS DOE AT Audit 11.20.2018.” This document shows attendance data for these students as follows: 164.5 days attended and 15.5 excused absences for Student [REDACTED], and 175 days attended and 5 excused absences for Student [REDACTED].

21. While document “WWS DOE AT Audit 11.20.2018” shows attendance data beyond 162 days, the other documentation submitted by the School shows contrary and conflicting data. Further, the data that the Department represented that it received from the School conflicts with the data in “WWS DOE AT Audit 11.20.2018.” The School also did not correct this data through a data audit or submit additional information to the Hearing Officer.

22. Because the evidence submitted to the Hearing Officer is conflicting and the majority of the evidence submitted by the School appears to show less than 162 days of enrollment, the Hearing Officer cannot conclude that Students [REDACTED] and [REDACTED] were enrolled for 162 days.

III. Recommended Decision

The Board's Accountability Category calculation for Western Wayne Schools was correct. The Board properly followed 511 IAC 6.2-10 in its calculation. Although the School did submit various documents as part of its appeal, these documents provide conflicting attendance information for these students, and the Hearing Officer cannot conclude that the evidence shows that these students were enrolled for 162 days for purposes of 511 IAC 6.1-10-1(5). Therefore, because the data reported to the Department showed less than 162 days of enrollment, these two (2) students were properly excluded from the accountability calculations, and the Department's decision should be sustained.

DATE: January 3, 2019

/s/ Stephanie Mullaney 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: Timothy A. Schultz, General Counsel
TSchultz1@sboe.in.gov

Certificate of Service

I certify that on January 3, 2019, I served the foregoing Recommended Decision on the following persons at the email addresses shown below.

/s/ Stephanie Mullaney, Hearing Officer

George Philhower, School Representative
gphilhower@wwayne.k12.in.us

Timothy A. Schultz, General Counsel
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Maggie Paino, Director of Accountability
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