RECOMMENDATION: Holy Cross Central School’s (“HCCS”) request for a waiver to delay A-F consequence for the 2018-2019 school year pursuant to I.C. 20-51-4-9 should be granted.

COMBINED FINDINGS OF FACT, CONCLUSIONS OF LAW, AND PROPOSED DETERMINATION

I. Basis for Agency Review

During the 2017 legislative session, the Indiana General Assembly enacted P.L. 251-2017, which, in relevant part, amended IC 20-51-4-9 to include subpart (b), which permits an eligible school subject to consequences to request that the Board grant a waiver of consequences for one year.

A. Consequences under IC 20-51-4-9(a)

In general, an eligible school may accept choice scholarship funds from eligible choice scholarship students enrolled at the school. However, an eligible school that receives any combination of D’s or F’s in consecutive years will have its ability to receive new choice scholarship students suspended. Under subsection (a), the school’s ability to receive choice scholarship students shall remain suspended until the eligible school receives a C or better in consecutive years as prescribed by statute. For a summary of how these consequences are applied, see Exhibit B (attached).

B. Requests for Waiver or Delay of Consequences under IC 20-51-4-9(b)

Indiana Code § 20-51-4-9(b) provides eligible schools with an option to avoid consequences imposed under subsection (a). Pursuant to IC 20-51-4-9(b), an eligible school subject to the consequences imposed under subsection (a) may submit a request to the Board to waive consequences for a period of one year. In order to obtain the waiver, subsection (b) provides, in relevant part, that the Board “may grant a request to an eligible school that requests a waiver or delay under this subsection if the eligible school demonstrates that a majority of students in the eligible school demonstrated academic improvement during the preceding school year.” (emphasis added). In other words, the Board’s ability to grant an eligible school’s waiver request is contingent upon whether the eligible school satisfies the legal threshold that a majority of students demonstrated academic improvement during the preceding year. Even if an eligible school satisfies the legal threshold necessary to receive a waiver, the Board may still deny the request. Waivers can only be granted for one year, however, schools may return to the Board and ask for a waiver the following year until it is removed from consequences under the statute.
II. Combined Findings of Fact and Conclusions of Law

On July 11, 2018, HCCS submitted a waiver request to the Board’s administrative law judge (“ALJ”), which waived the right to an administrative hearing.\(^1\) As a result, the ALJ, Timothy Schultz, conducted a desk review of the waiver request.

A. Background Information

According the materials provided as part of HCCS’ waiver request, the Roman Catholic Church of the Archdiocese of Indianapolis (“Archdiocese”) owns and operates the Mother Theodore Catholic Academies, which includes HCCS. HCCS is a non-public school with Freeway Accreditation. HCCS serves students from early childhood to the eighth grade. All faculty members are certified in the State of Indiana to teach in their assigned instructional areas. During the 2017-2018 school year, Holy Cross’ enrollment included 239 students. According to the Indiana Department of Education’s (“IDOE”) COMPASS report, of the 239 students, 66.5% students are minorities – 46.4% are Hispanic, 13% are Black, and 7.1% are Multiracial. Furthermore, approximately 97.2% of students at Holy Cross receive free meals.\(^2\)

HCCS received an “F” for the 2015-2016 and “D” for the 2016-2017 school years. As HCCS received an “F” and “D” for two consecutive years, absent a waiver of consequences, its ability to receive choice scholarship funds for new students will be suspended. In response to HCCS’ poor academic performance, the Archdiocese and The Mother Theodore Catholic Academics, Inc. entered into a Memorandum of Understanding with the University of Notre Dame’s Alliance for Catholic Education (“ACE” or “Notre Dame ACE”) Academies to provide turn-around services to the five schools – including HCCS.

i. Notre Dame ACE Academies

The University of Notre Dame is committed to strengthening and transforming Catholic schools across the nation, particularly those that serve under-resourced and low-income communities. In 2010, the University of Notre Dame established ACE. ACE is a comprehensive model of urban school transformation that attends to multiple dimensions of schooling, including curriculum, instruction, assessment, financial management, marketing, leadership, governance, and Catholic school culture. This model for school turnaround establishes a unique partnership with local Catholic dioceses to provide a Catholic education of the highest quality to as many children as possible in under-served and low-income communities. In order to sustain high-quality, low-cost educational excellence in under-served, low-income communities and schools, the establishment of the Notre Dame ACE partnership is dependent upon geographic areas where families can choose to educate their children via voucher programs. Because these schools enroll students who participate in parental choice scholarship programs, scholarship revenue represents the most significant portion of needed annual funding. ACE Academy schools are led by high-quality school leaders supervised by the regional Notre Dame ACE Academy Board and trained by ACE in an on-going faith formation and professional development program. In addition, ACE implements a number of structural features in the educational program known to facilitate school improvement, all of which will be supported by ACE through both a regional and national network of dedicated pastoral and educational professionals.

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\(^1\) Waiver Request attached as Exhibit A (confidential information redacted).
\(^2\) See DOE National School Lunch Program Meal Data for 2017-2018
ii. **Archdiocese Partnership with ACE**

Beginning with the 2016-2017 school year, the University of Notre Dame, the Archdiocese, and the Mother Theodore Catholic Academies, Inc. entered into a Memorandum of Understanding to establish a partnership with ACE (“Partnership”). The goal of the Partnership was to catalyze comprehensive school excellence by implementing a unique model of urban Catholic schooling supported by parental choice scholarships and mobilization of the resources of ACE with support of the Archdiocese. This Partnership sought to provide Catholic education of the highest quality to as many children as possible in the under-served communities. The Partnership sought to attend to multiple dimension of schooling, including excellence in education, Catholic school culture, operational management, and above all else – high-quality academics. The Partnership represents a new model of sponsorship and collaboration to the academic program of the schools. The Partnership is focused on several key objectives that support improvements in academic learning and success. The Partnership emphasizes continuous improvement in all aspects of school operations, with a particular focus on Catholic school culture, advancement, and teaching/learning.

HCCS contends that although it has only been partnered with ACE for less than two (2) years, it has already begun to see significant academic and non-academic improvements. At the outset of the partnership, ACE identified significant academic shortfalls that were prevalent at HCCS. Identifying the immediate issues, ACE made significant investments in HCCS to enrich not only the Indianapolis students who are afforded the opportunity to attend HCCS, but also the community. To date, Notre Dame ACE has achieved the following:

- Implemented new governance model that establishes a new school board with responsibility for hiring and evaluating school leaders. The school leadership committee of this board, which evaluates and hires school leaders, is led by Notre Dame faculty and is joined by representatives of the Archdiocese. In its first year the leadership committee replaced the school leader at HCCS.

- HCCS hired two new key leaders for 2018-2019 school year. Matthew Gring joined the administrative team as principal after having served as the assistant principal at Sacred Heart Catholic School, a Notre Dame ACE Academy, in Pinellas Park, Florida. His experience with the ACE Academies framework, mission, and student population were all cited as reasons for Matthew being an ideal candidate to lead HCCS. Angie Therber joined the administrative team as an assistant principal. She came with over 15 years of experience teaching Language Arts at the middle school and high school level.

- In the 2017-2018 school year, HCCS hired nearly 6 new teachers. In particular, the 5 teachers that demonstrated poor student growth on NWEA MAP and a low percentage of students passing ISTEP at HCCS will not be returning for the 2018-2019 school year.

- Hired three full-time University employees – two regional directors of school culture and one advancement specialist – who work in the schools every day alongside school leaders and teachers to build teacher capacity and strengthen student learning. The regional directors provide professional development, instructional coaching, assessment analysis support, data coaching, and school culture development support to school leaders and teachers at all five schools. The advancement specialist supports the school leader and front office staff in growing enrollment, developing enrollment management strategy, and managing recruitment and scholarship enrollment efforts.
• Hosted HCCS teachers and leaders on Notre Dame’s campus for one week for the Notre Dame ACE Academies Summer Institute to develop a strong, positive, intentional Catholic school culture through the articulation root beliefs and aligned operating norms for their schools. The Summer Institute provided high-quality professional development to teachers at the school.

• Led monthly workshops and a high-quality school immersion visit for school leaders to strengthen the effective use of observation walkthroughs and teacher feedback conversations, with the goal of improving teachers’ instructional practices.

• Established a pipeline of leadership for the diocese by recruiting teachers to the Mary Ann Remick Leadership program and attracting high-quality ACE teaching and leadership graduates to teach and lead in the ACE Academies in the Archdiocese.

• Raised $1,571,561 in capital investments from the Shea Foundation and Shea-Keiwit Joint venture towards facility and technology improvements at HCCS and the four other schools.

• Received $861,479 in grants to support the Notre Dame ACE Academies efforts in Indianapolis. This includes $492,991 from the Kellogg Foundation, $100,000 from the Louis C. Calder Foundation, and $1,100,000 from the Conrad C. Hilton Foundation, $268,488 of which is committed specifically to ACE’s efforts in Indianapolis.

• Invested an additional $528,505 towards the operation of the Mother Theodore Catholic Academies in 2016-17. Notre Dame’s 5-year projection for total investment in these schools between 2016-2021 is $2,918,000.

While these investments and interventions are beginning to produce positive results, the stark reality facing HCCS – the suspension of new scholarship students – will undermine and seriously hinder Notre Dame ACE’s ability to continue to improve the school’s structure and curriculum without necessary funds. The transformations underway at HCCS are essential to ensure students receive the highest quality education, which in turn will continue to improve their academic progress.
B. Review of State Academic Data

DATA SUMMARY\(^3\)

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<thead>
<tr>
<th></th>
<th>2015-16</th>
<th>2016-17</th>
<th></th>
<th>2015-16</th>
<th>2016-17</th>
<th></th>
<th>2015-16</th>
<th>2016-17</th>
</tr>
</thead>
<tbody>
<tr>
<td>A-F Overall Score</td>
<td>“F”</td>
<td>“D”</td>
<td>ISTEP Overall Pass Rate</td>
<td>16.0%</td>
<td>18%</td>
<td>(+2%)</td>
<td>30.2%</td>
<td>42.5%</td>
</tr>
<tr>
<td></td>
<td>45.3</td>
<td>67.1 (+21.8)</td>
<td></td>
<td></td>
<td></td>
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<td></td>
<td></td>
</tr>
<tr>
<td>A-F Performance Score</td>
<td>14.88</td>
<td>18.25 (+3.37)</td>
<td>ISTEP ELA Pass Rate</td>
<td>38.6%</td>
<td>45.3%</td>
<td>(+6.7%)</td>
<td>35.0%</td>
<td>29.8%</td>
</tr>
<tr>
<td></td>
<td>30.35</td>
<td>48.8 (+18.45)</td>
<td>ISTEP Math Pass Rate</td>
<td>21.8%</td>
<td>24.0%</td>
<td>(+2.2%)</td>
<td>84.6%</td>
<td>81.8%</td>
</tr>
</tbody>
</table>

OVERALL A-F ACCOUNTABILITY DATA

As the chart above indicates, during the 2016-17 school year HCCS received an overall accountability score of 67.1, which resulted in the school being assigned a “D” grade. This score represents an increase from the 2015-2016 school year, when HCCS received a 45.3 (resulting in an “F” grade). Furthermore, HCCS’ performance domain for grades 3-8 increased from 14.88 points during the 2015-2016 school year to 18.25 points for the 2016-2017 school year. In regards to HCCS’ growth domain, it significantly increased, going from 30.35 in 2015-2016 to 48.8 during the 2016-2017 school year.

ISTEP RESULTS

Regarding HCCS’ overall passage rate on the 2015-16 ISTEP (passing both ELA and Math), 16% of students passed compared to HCCS’ 2016-17 ISTEP passage rate, which increased to 18%. Reviewing the test results by individual category, it appears that HCCS’ performance for both ELA and Math increased from 2015-2016 to 2016-2017. Specifically, HCCS’ ELA pass rate for grades 3-8 went from 38.6% in 2015-2016 to 45.3% during the 2016-2017 school year. Similarly, HCCS’ Math pass rate for grades 3-8 went from 21.8% in 2015-2016 to 24% during the 2016-2017 school year.

Although the Social Studies and Science sections of the ISTEP are not used for accountability purposes, it is worth noting these results for purposes of this waiver request. HCCS’ Social Studies pass rate did increase, going from 30% in 2015-2016 to 42.5% during the 2016-017 school year. However, HCCS’ Science pass rate went from 35% in 2015-2016 to 29.8% during the 2016-2017 school year.

\(^3\) All data retrieved from IDOE’s COMPASS website: https://compass.doe.in.gov/dashboard/overview.aspx?type=school&id=C595.
HCCS’ student growth data can be further broken down by growth categories. Regarding ELA growth, in 2015-2016 HCCS’ student breakdown is as follows:

<table>
<thead>
<tr>
<th></th>
<th>2015/2016 ELA GROWTH</th>
</tr>
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<tbody>
<tr>
<td></td>
<td>LOW</td>
</tr>
<tr>
<td>Number</td>
<td>64</td>
</tr>
<tr>
<td>Percent</td>
<td>65%</td>
</tr>
</tbody>
</table>

During the 2016-2017 school year, HCCS’ ELA growth student breakdown shows significant decrease in the number of students assigned to the “low” growth category while the number of students in the “high” growth category increased, with the result that 64% of tested students were placed in “standard” or high” growth for ELA:

<table>
<thead>
<tr>
<th></th>
<th>2016/2017 ELA GROWTH</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LOW</td>
</tr>
<tr>
<td>Number</td>
<td>32</td>
</tr>
<tr>
<td>Percent</td>
<td>35%</td>
</tr>
</tbody>
</table>

Regarding Math growth, in 2015-2016 HCCS’ student breakdown is as follows:

<table>
<thead>
<tr>
<th></th>
<th>2015/2016 MATH GROWTH</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LOW</td>
</tr>
<tr>
<td>Number</td>
<td>67</td>
</tr>
<tr>
<td>Percent</td>
<td>66%</td>
</tr>
</tbody>
</table>

Similar to HCCS’ ELA growth, during the 2016-2017 school year, HCCS’ Math growth student breakdown demonstrates a significant decrease in students in the “low” category while the number of students in the “high” growth category substantially increased, with the result that 59% of tested students were placed in “standard” or high” growth for Math:

<table>
<thead>
<tr>
<th></th>
<th>2016/2017 MATH GROWTH</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>LOW</td>
</tr>
<tr>
<td>Number</td>
<td>37</td>
</tr>
<tr>
<td>Percent</td>
<td>41%</td>
</tr>
</tbody>
</table>

IREAD

Although the majority of accountability and ISTEP data demonstrate a positive trend, HCCS I-READ results exhibit a downward trend. In regards to I-READ data, 84.6% of students passed in the 2015-2016 school year, and 81.8% of students in the 2016-2017 school year.

III. Proposed Determination

It is evident that HCCS is presently taking steps to achieve academic improvement. Moreover, HCCS’ academic performance, which includes receiving a higher grade in 2016-17 compared to the preceding school year, and substantial improvements in student growth establishes that a majority of students demonstrated academic improvement during the preceding school year, as required under IC 20-51-4-9(b). Therefore, under the totality of the circumstances, the waiver request should be granted.
NOTICE OF POST-HEARING RIGHTS

HCCS may submit an objection to the proposed determination in writing fifteen (15) days after the proposed determination is served on the petitioner, unless HCCS waives this time requirement. An objection must identify the basis of the objection with reasonable particularity. Once the time period to submit an objection to the proposed determination has expired, the proposed determination will be submitted to the Board for consideration and to make a final determination during the Board’s monthly business meeting. Any party impacted by the proposed determination may attend the meeting and directly address the Board members. Written objections are to be submitted to the administrative law judge as follows:

Timothy Schultz  
Administrative Law Judge, General Counsel  
Indiana State Board of Education  
143 W. Market, Suite 500  
Indianapolis, IN 46204  
Tschultz1@sboe.in.gov F: 317.234.8726

Dated: July 24, 2018

Timothy Schultz  
Administrative Law Judge, General Counsel  
Indiana State Board of Education
CERTIFICATE OF SERVICE

I certify that a copy of the foregoing was sent to the follow via electronic mail:

Heather Willey Heather.Willey@btlaw.com
Taylor Hunter Taylor.Hunter@btlaw

Dated: July 24, 2018

_________________________________________________________________

Timothy Schultz
Administrative Law Judge, General Counsel
Indiana State Board of Education