

HEA 1003 – Waiver of Statutory Provisions and Regulations



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The 2020 Indiana General Assembly passed House Enrolled Act (HEA) 1003, which addressed many education-related statutes. One of the areas addressed by HEA 1003 was the Performance-Based Accreditation system. The new law requires the State Board of Education (SBOE) to establish a performance-based accreditation system. The SBOE is in the process of doing so, but the system has not yet been set up. Part of the new law requiring the performance-based accreditation system allows a school or group of schools to apply to the SBOE for a waiver of education statutes or regulations. The law sets out in IC 20-31-4.1-7 the statutes that cannot be waived by the SBOE. At its October and November meetings, the SBOE considered the waiver applications of several school corporations.

The SBOE has not yet formally adopted any procedures or rules as to how a school corporation applies for the waiver. Some preliminary processes have been established such as the waiver application must be submitted through the Accountability Portal on the Indiana Department of Education (IDOE) website. No deadline to apply for a waiver has been established at this time. The SBOE staff will review the application and make a recommendation to the SBOE to grant or deny the waiver of each statute or regulation requested. The application must meet the requirements of the statute, and the staff is looking at whether the goal and/or outcome of the waiver is based on student achievement. Performance benchmarks must be connected to the goals stated in the application. The purpose of the waiver must be grounded in or tie-back to student achievement. The SBOE staff views the waiver as a vehicle to address unique situations that are locally based.

The statute requires the following to be in the waiver application: a list of the specific statutes and rules the school or group of schools is requesting to be waived; the specific goals or outcomes the school corporation intends to achieve by the waiver and how these goals or outcomes will be achieved by the waiver; and a resolution of the school board approving the application of the waiver. The specific goals are listed in the statute as:

(1) Improve student performance and outcomes.

(2) Offer the applicant flexibility in the administration of educational programs or improve the efficiency of school operations.

(3) Promote innovative educational approaches to student learning.

(4) Advance the mission or purpose of the school or group of schools.

If the waiver is approved, it does not have to be used but is available to do so. The SBOE encourages the waiver to be for at least four years, but the waiver applications to date have asked for only one-year waivers. Many of the waivers requested have addressed the current situation with COVID-19 affecting the schools and have asked for flexibility for instructional days to be determined by instructional minutes. Those waivers have been approved by the SBOE, but waivers on school safety issues such as bullying and suicide prevention training have been denied.