

Illinois State Board of Education

Appeal of School or District Improvement Status Guidance

Appeals Process

The appeals submission and review process is time sensitive and a school/district must submit its **intent to appeal form** no later than 30 days after the school/district's AYP status is posted on IWAS or by September 1, 2011, whichever occurs later.

AYP appeals will generally request a review of one of the indicators used to determine the AYP status, i.e. Performance, Participation, or the Other Indicator.

- Schools and districts are strongly encouraged to take advantage of the informal resolution process. This is the most efficient way to resolve appeals based on statistical reasons and/or technical issues.
- The burden of proof rests with the district officials to demonstrate that the school/district's AYP designation is in error.
- Appeals must be limited to the statistical or substantive reasons permitted under the *No Child Left Behind Act* (20 USC 6316 §1116(b)(2)(B)). The appeal process cannot be used to challenge federal or state law or to challenge legal requirements for calculating AYP (e.g., minimum subgroup size, safe harbor's application to subgroups only, inclusion of students in school/district prior to May 2, etc.).
- A school/district needs to be certain that if they did not make AYP in multiple categories that the appeal addresses all deficiencies. While appeals addressing only one deficient area may be compelling, if the overall school/district Adequate Yearly Progress designation would not be changed, the appeal will not be heard by the Appeals Advisory Committee.

How to file an AYP Appeal

Appeals must be submitted in writing and must include the following:

- 1) Intent to Appeal Form – only one form may be filed per appeal (See page 6)
- 2) Appeal Summary Report – fill out one for each appeal or each school affected by the appeal (See page 7)
- 3) Explanation & Evidence - For each subject(s), subgroup(s) and/or other indicator being appealed, please provide a separate, succinct explanation describing the justification for the appeal. Include supporting evidence for each statistical error or substantive reason that constitutes the basis of the appeal. Attach copies of the appropriate AYP data. Show all calculations and be sure your calculations indicate the manner in which the target will be met. Provide evidence that corrective actions have been implemented to assure that the circumstances surrounding the appeal will not be repeated. (See page 2)

Completed appeal documentation must be submitted no later than 30 days after the school's/district's AYP status is posted on IWAS or by Thursday, September 2, 2011, whichever is later, to:

Illinois State Board of Education
ADEQUATE YEARLY PROGRESS (AYP) APPEAL
100 North First Street, E-216
Springfield, IL 62777-0001

Questions or concerns? Please contact Boon Lee at (312) 814-3222 or via email at blee@isbe.net.

May 11, 2011

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Review of Data

ISBE's staff (the "Agency") provides school/district officials with the preliminary district Adequate Yearly Progress reports and the preliminary District In Need of Improvement designations. Upon receiving the school's/district's AYP report, school personnel and parents have an opportunity to review the report information together with student and school level state assessment results. If, after review, school officials believe the determination is in error, the superintendent or the district's designee may file an appeal with ISBE.

Description of "Evidence"

The school's/district's appeal must be based on *statistical or substantive evidence* demonstrating that the school's or the district's AYP determination is in error.

Statistical reasons:

Technical errors or data calculation inaccuracies, such as:

- recording or scoring of test results that could not be resolved during data correction period,
- test participation information,

Appeals based on *statistical reasons* should include evidence of technical errors or data calculation inaccuracies that were the basis for the determination, and could not be resolved during the preliminary data correction period. Appeals resulting from a district's failure to make corrections during the demographic and score data correction window will not be accepted. The school/district should provide supporting data/information, explanations and calculations for each issue being challenged.

Appeals based on statistical reasons or technical issues are often resolved during the informal review process. If after data calculation corrections are made the school or district makes AYP, its designation will be changed accordingly. If the data calculation corrections do not change the school's or district's AYP status, the appeal can only move forward if the district provided substantive and statistical reasons for its appeal, or if the statistical reasons could not be resolved during the data correction period or the informal review process.

Substantive reasons:

Situation(s) having a detrimental impact on the assessment and/or other performance indicators, resulting in the school or the district not making AYP.

Appeals based on *substantive reasons* must include evidence that a particular situation caused a significant decrease in student academic achievement on state assessments and/or caused a significant decrease in student attendance during the administration of the assessment.

- The school/district must provide assessment documentation which indicates its basis for determining that the state assessment scores did not represent an accurate measure of the district's performance.
- The school/district must describe actions it has taken to ensure similar events will not occur in the future, or if the event was beyond the school's or the district's control, describe what measures it will take to reduce the likelihood of such an event having a similar impact on student performance.

Examples – Major natural disaster, community crisis, or unusual testing circumstances that resulted in the invalidation of test materials.

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Proceeding to Appeals Advisory Committee Hearing:

A hearing with the Appeals Advisory Committee will be scheduled within 30 days of notification that (1) the school/district does not wish to engage in the informal resolution process or (2) the informal resolution process has concluded and district wishes to proceed with the appeal. Data calculation or technical corrections must be requested prior to the hearing with the Appeals Advisory Committee. No additional data calculation or technical correction will be made after the hearing has been scheduled. *See 105 ILCS 5/2-3.25m*

Briefs and Representation:

The school/district may be represented by an attorney (at school/district's expense) throughout the proceedings and has the option to file a written brief outlining the issues presented for the Appeals Advisory Committee to consider. The Office of the General Counsel to the State Board will represent the Agency and may file written briefs before the hearing.

No subsequent information or issues may be presented:

After briefs have been submitted, neither the school/district nor the Agency can submit additional information or argue issues not presented in the brief or notice of intent form, unless specifically requested by the Committee's Chairperson. The Agency will provide a signed assurance to the Committee that any calculations at issue were double-checked.

Hearing Procedures:

Each party will be given 30 minutes for argument, and the school/district may reserve 10 of its 30 minutes for rebuttal. The Committee may ask questions during such argument. If neither party requests oral argument, the Committee may request that the parties make an oral presentation on the date scheduled for the hearing.

The Chairperson of the Committee will provide an overview of the hearing proceedings. The Committee will consider only those issues raised in the school's/district's intent to appeal form or the briefs. All hearings will be recorded. A majority of Committee members shall constitute a quorum. Each Committee member shall recuse himself or herself when hearing an appeal from a district with which the member has a conflict of interest, e.g., employment by the district, having a close family member in attendance at a school in the district or employed by the district, service as a school board member, or other affiliation with the district.

Consolidation of similar issues:

If two or more schools/districts request an appeal regarding the same question of policy, or fact, Agency staff may consolidate those appeals if it determines that consolidation would secure economies of time and effort and promote uniformity of decision-making by the Committee. Each school/district may submit its own brief, or any two or more of the districts whose appeals are consolidated may elect to write a joint brief. All districts whose appeals are consolidated will be given 40 minutes for argument, and the school/districts may reserve ten of their forty minutes for rebuttal. The schools/districts shall either select one or more representatives to argue on behalf of the schools/districts or divide the time equally amongst all districts. The agency shall submit one brief in response to the question of policy, or fact subject to the consolidated appeal and shall have 30 minutes for argument.

Committee Recommendations:

The Committee, by a majority vote, may recommend that the State Superintendent affirm or reverse the Agency, in whole or in part.

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Within 30 days after the hearing, the Committee shall submit a written recommendation for action to the State Superintendent of Education and shall state the reasons for its recommendation. All recommendations shall be based on an objective evaluation of the school's/district's claims. The State Superintendent shall thereafter make a recommendation for action to the State Board of Education. The State Board of Education shall make the final determination.

Sample Timeline of Appeal Process

A hearing with the Appeals Advisory Committee will be scheduled within 30 days of notification that (1) the district does not wish to engage in the informal resolution process or (2) the informal resolution process has concluded and district wishes to proceed with the appeal.

Thursday, September 1

Appeal documentation must be received by ISBE.

Friday, September 2

Informal Review Period - Upon receipt of the Intent to Appeal form, the district will have an opportunity to meet with Agency staff (either in person or over the telephone) in an effort to resolve the issues raised in the request through informal means, such as data calculation corrections.

Tuesday, September 6

The district has elected not to meet with Agency staff. The district understands that data calculation or technical corrections must be requested prior to the hearing with the Appeals Advisory Committee. No additional data calculation or technical correction will be made after the hearing has been scheduled.

Wednesday, September 7

Agency staff will provide written notice of the date, time, and place of the hearing to the district not less than 21 days before the hearing date. The notice shall be sent by certified mail, return receipt requested.

Wednesday, September 14

The school district's brief shall be due 7 days after the district's receipt of the notice of opportunity for hearing.

Wednesday, September 28

The Agency's brief shall be due 14 days after it receives the districts' brief.

Monday, October 3

Appeals Advisory Committee Hearing

Tuesday, November 1

Appeals Advisory Committee Recommendations submitted to the State Superintendent

Next Board Meeting

The State Board will vote on the State Superintendent's recommendation, ISBE's staff will notify districts in writing the outcome of their appeal.

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References

The three conditions for making Adequate Yearly Progress (AYP) in 2011 are:

1. At least 95% tested in reading and mathematics for every student group. If the current year participation rate is less than 95%, this condition may be met if the average of the current and preceding year rates is at least 95%, or if the average of the current and two preceding years is at least 95%.
2. At least 85% meeting/exceeding standards in reading and mathematics for every group. For any group with less than 85% meeting/exceeding standards, a 95% confidence interval was applied. Subgroups may meet this condition through Safe Harbor provisions. ***
3. At least 91% attendance rate for non-high schools and at least 82% graduation rate for high schools.

*** Subgroups with fewer than 45 students are not reported. Safe Harbor only applies to subgroups of 45 or more. In order for Safe Harbor to apply, a subgroup must decrease by 10% the percentage of scores that did not meet state standards from the previous year plus meet the other indicators (attendance rate for non-high schools and graduation rate for high schools) for the subgroup. For subgroups that do not meet their Safe Harbor Targets, a 75% confidence interval is applied. Safe Harbor allows schools an alternate method to meet subgroup minimum targets on achievement (Does not apply to the all category).

NCLB Appeal Language:

§1116(b) (2) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE; TIME LIMIT-

(A) IDENTIFICATION- Before identifying an elementary school or a secondary school for school improvement under paragraphs (1) or (5)(A), for corrective action under paragraph (7), or for restructuring under paragraph (8), the local educational agency shall provide the school with an opportunity to review the school-level data, including academic assessment data, on which the proposed identification is based.

(B) EVIDENCE- If the principal of a school proposed for identification under paragraph (1), (5)(A), (7), or (8) believes, or a majority of the parents of the students enrolled in such school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the local educational agency, which shall consider that evidence before making a final determination.

(C) FINAL DETERMINATION- Not later than 30 days after a local educational agency provides the school with the opportunity to review such school-level data, the local educational agency shall make public a final determination on the status of the school with respect to the identification.

§1116(c) (5) OPPORTUNITY TO REVIEW AND PRESENT EVIDENCE-

(A) REVIEW- Before identifying a local educational agency for improvement under paragraph (3) or corrective action under paragraph (10), a State educational agency shall provide the local educational agency with an opportunity to review the data, including academic assessment data, on which the proposed identification is based.

(B) EVIDENCE- If the local educational agency believes that the proposed identification is in error for statistical or other substantive reasons, the agency may provide supporting evidence to the State educational agency, which shall consider the evidence before making a final determination not later than 30 days after the State educational agency provides the local educational agency with the opportunity to review such data under subparagraph (A).

See also the Title I regulations (34 CFR 200.31(b), 200.35(a)(ii), 200.50(c)), Section 2-3.25m of the Illinois School Code and Part 1.95 of the 23 Illinois Administrative Code.

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INTENT TO APPEAL

Must be received by the ISBE no later than the end of the business day on Thursday, September 1, 2011 or 30 days from the date of AYP posting on IWAS, whichever was later.

This confirms that the _____ School/District intends to appeal its 2011 Adequate Yearly Progress (AYP) determination.

Agree to engage in the informal resolution process with ISBE staff: _____ YES _____ NO**

** Hearings will be scheduled within 30 business days of receipt of notice that the School Districts does not want to engage in the informal resolution process. Once the appeal is scheduled with the Appeals Advisory Committee, no additional data calculation or technical correction requests will be made.

INFORMATION			
<i>School/District Name:</i>		<i>#:</i>	
<i>Principal/Superintendent:</i>			
<i>Contact person:</i>			
<i>Contact E-mail:</i>			
<i>Contact Phone:</i>	<i>Fax:</i>		
District-wide Appeals:	Would this appeal affect the AYP status at the district level? _____ (Y or N)		
	Would this appeal affect the AYP status of schools within the district? _____ (Y or N)		
	If so, please list the school name(s) and RCDTS code(s) for which this appeal is made:		
School Name	School RCDTS code	School Name	School RCDTS code
1)		6)	
2)		7)	
3)		8)	
4)		9)	
5)		10)	

I verify that I have reviewed the:

- *appeal application, including all supporting evidence, to confirm its accuracy;*
- *necessary statistical or substantive evidence that will demonstrate that, if corrected or considered, will change the school's or district's AYP status;*
- *appeal application to confirm it addresses all deficiencies that caused the district not to make AYP; and,*
- *I certify, to the best of my knowledge and ability, that all submitted documents are accurate and understand penalties will be assessed for intentionally falsifying data or information.*

Signature: _____ **Date** _____

(Original – in blue ink)

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APPEAL SUMMARY REPORT 2011

District-wide appeals: Please fill out this page for each school listed on the intent to appeal form.

School/District Name:

1) **Identify reason(s) for this appeal.** In the charts below, please place a mark (X), in the box(es) to indicate which subject(s), subgroup(s) and/or other indicator resulted in the district not making AYP. In the shaded box(es), please indicate the specific basis for appeal for each subject(s), subgroup(s) and/or other indicator.

Please identify the **APPEAL BASIS** as follows:

DE=Data Calculation Error* (*statistical*) **SC**=Special Circumstances (*substantive*) **BO** = Both Reasons

Attendance 91%	Did not make AYP	Appeal Basis	Graduation 82%	Did not make AYP	Appeal Basis

	MATHEMATICS				READING			
	Did not make AYP		Appeal Basis		Did not make AYP		Appeal Basis	
	95% Participation	Meets 85% Target	95% Participation	Meets 85% Target	95% Participation	Meets 85% Target	95% Participation	Meets 85% Target
All Students								
White (non-Hispanic)								
Black								
Hispanic								
Asian/Pacific Islander								
American Indian/Alaskan Native								
Low Income								
IEP								
LEP								

2) Explanation & Evidence

For each subject(s), subgroup(s) and/or other indicator being appealed, please provide a separate, succinct explanation describing the justification for the appeal. Include supporting evidence for each statistical error or substantive reason that constitutes the basis of the appeal. Attach copies of the appropriate AYP data. Show all calculations and be sure your calculations indicate the manner in which the target will be met.