

Schultz, Timothy A

From: Jennifer McCormick
Sent: Friday, June 1, 2018 5:16 PM
To: Voors, Matthew (Matt)
Subject: Re: Ninevah-Hensley-Jackson

Thanks.

Sent from my iPad

On May 31, 2018, at 2:38 PM, Voors, Matthew (Matt) <MVoors@sboe.in.gov> wrote:

Dr. McCormick,

I wanted to let you know that we will be reaching out to the Superintendent of Ninevah-Hensley-Jackson this afternoon in advance of sending the letter we discussed. If you have any questions or concerns, please feel free to let me know.

Matthew Voors
Executive Director
Indiana State Board of Education
(O) 317.232.0963 | www.in.gov/sboe | F: 317.234.8726
143 W. Market, Suite 500, Indianapolis, IN 46204

<image001.png>

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Schultz, Timothy A

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Sent: Thursday, May 31, 2018 2:39 PM
To: Jennifer McCormick
Subject: Ninevah-Hensley-Jackson

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Schultz, Timothy A

From: Timothy Edsell <tedsell@nhj.k12.in.us>
Sent: Friday, June 8, 2018 3:46 PM
To: Schultz, Timothy A; Voors, Matthew (Matt)
Subject: follow-up letter
Attachments: SBOE follow-up response 2018.06.08.pdf

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Dear Executive Director Voors,

Please see the attached letter as a follow-up from our meeting that occurred this past Wednesday, June 6th. Please let me know if you need any additional information. Thank you for your time and consideration with this matter.

Tim

Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United School Corporation
802 S. Indian Creek Drive
Trafalgar, IN 46181
317-878-2100

"If you want to go to the highest level, you can only do so with the help of others." - John C. Maxwell

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Indian Creek Schools

June 8, 2018

VIA EMAIL

Matthew Voors, Executive Director
Timothy Schultz, General Counsel
Indiana State Board of Education

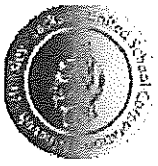
Dear Executive Director Voors:

Your preliminary analysis was received by me as the Superintendent of the Nineveh-Hensley-Jackson United School Corporation (NHJ) on May 31, 2018. It included discussion about NHJ authorizing a charter for the Indiana Agricultural & Technology School (IATS). First, thank you for the opportunity to discuss this matter on Wednesday, June 6, 2018, and analyze the ambiguous statutory language at issue. We think our discussion was very helpful to give everyone piece of mind to move forward as planned yet continue our dialogue about the policy of innovative collaboration like we have here. You are right to be scrutinizing online education and we will be part of the solution. We are committed to getting this right to benefit all students involved. As a follow-up from our conversation, you asked us to put into writing a breakdown of the charter school instruction, timeline of events and legal analysis. What follows is the information you requested; however, should you need any additional information, please let us know as we are committed to being involved in discussions moving forward about what education policy, regulation and law are appropriate to safeguard student learning opportunities.

As we have discussed, there is legal authority to support our collective actions and all legal requirements have been followed. An objective and unbiased examination of the facts and law surrounding the chartering of IATS reveals that IATS was legally chartered by NHJ.

NHJ is a public school corporation educating students in two Townships in Johnson County and one Township in Morgan County. IATS leases approximately 600 acres of mixed-use rural land within the NHJ attendance area. Located on the land are numerous improvements. The land is developed and utilized for mixed-use agriculture, including, but not limited to, grain production, hay and pasture, livestock and forestry. There are numerous ponds located on the property. IATS proposed to construct and operate a school on the property. In less than two months, IATS will provide instruction to grades 7 thru 12. The school offers an Indiana Diploma Core 40 Academic track and concentrates on providing instruction that allows graduates to enter the workforce in agriculture and agricultural related occupations.

In reviewing the timeline of events, NHJ submitted a charter school authorizer application and cover letter to the State Board of Education (SBOE) on June 29, 2017. This application packet was sent to John Snethan, former Executive Director, who



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stated to me that this application did not need SBOE's board approval but that he would review it with legal counsel and get back to me after 30 days. Page 3 of the application and the cover letter included specific language pertaining to virtual learning occurring in this blended learning model. Additionally, the charter school authorizer application contained all of the six statutorily required sections from Indiana Code 20-24-2.2-1.2.

After thirty (30) days of the application submission, NHJ did not receive confirmation from SBOE, so NHJ sent multiple emails and make a handful of phone calls to finally receive an answer on their charter school authorizer application. NHJ received verbal confirmation from John Snethan that NHJ had received charter authorization approval. On or about August 3, 2017, NHJ received a confirmation letter from SBOE that was signed by Timothy Schultz confirming NHJ's charter authorizer authority.

After conducting the appropriate due diligence in order to determine whether IATS would provide a substantial educational benefit and, after conducting the required public hearing, the NHJ Board of School Trustees determined to be the charter authorizer for IATS. The authority to authorize the charter is found at I.C. § 20-24-2.2-1.2(b). The campus of IATS is located within the attendance area of NHJ. Instruction will be provided to students at the campus. The campus is properly zoned for its intended use. IATS is working with NHJ to provide transportation for students located within NHJ's attendance area to and from the IATS campus. IATS is also working with NHJ to employ NHJ certified personnel to teach classes at the IATS campus. In short, IATS is a "school" whose physical location is within the attendance area of NHJ.

In theory, there are few models of collaboration between NHJ and IATS that are possible. NHJ could deliver the program itself, but IATS has been able to develop substantial non-public financial support to launch this initiative.

Notwithstanding the above, there has been an assertion made that because IATS may offer its instruction online at the convenience of its students, that NHJ does not have the authority pursuant to the above referenced statute to authorize a charter for IATS. As we agreed, we have been forthright about the plans for NHJ and IATS from the outset. Having looked at the issues raised in your correspondence and our discussion, we now realize the statutory language is ambiguous. That said and as was articulated in our discussion, neither I.C. § 20-24-2.2-1.2(b) nor I.C. § 20-24-7-13 in any way prohibits NHJ from exercising chartering authority conferred upon it by I.C. § 20-24-2.2-1.2(b).

It was proffered that because IATS offers instruction online to benefit the variety of students that are interested in a vocation in agriculture, that IATS cannot be chartered by NHJ. The statute cited in support of this assertion is I.C. § 20-24-7-13 and a review of this statute shows that there is nothing within this code provision that prohibits NHJ from authorizing a charter to a school located within NHJ's attendance area, regardless of whether the school may offer instruction online. The IATS mission and plan for its charter school is a blended model of online instruction and in-person, hands on



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instruction. A cornerstone component of this model is the brick and mortar campus of IATS, located within the NHJ attendance area.

There is analysis of I.C. § 20-24-7-13 that the statute applies to any school that provides for the delivery of more than fifty (50%) percent instruction to students through virtual distance learning, online technologies or computer based instruction. That interpretation may or may not be accurate because the statute is ambiguous in terms of defining what a "virtual charter school" is. But we don't need to get that far into the analysis to permit IATS to proceed as planned next month. IATS is implementing a blended model of online instruction school and traditional brick and mortar school.

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- Fire Safety
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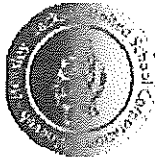
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To assist it with its blended model, IATS and NHJ will have shared staff resources in the following areas:

- i. Mental Health Counselor,
- ii. Agriculture Department,
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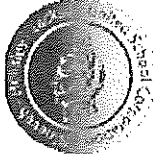
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IATS's goal is to control its enrollment so that it can deliver quality not quantity. Their year 1 goal is 550 students with minimum of 200 students. To date, IATS has close to 100 students enrolled and continue to enroll daily at an average daily rate around 5 families. IATS has hired staff for school and has already had professional development with its curriculum provider and have more scheduled within the next month.

Based upon the above information, IATS is not simply an online school. Further, the interpretation of I.C. § 20-24-7-13(b) is at best ambiguous. The requirement that IATS be authorized by a "statewide authorizer" is permissive. In that regard, the statute states: "A virtual charter school may apply for authorization with any statewide authorizer". I.C. § 20-24-7-13(b) (emphasis added). The statute does not say that a virtual charter school must apply with a statewide authorizer. The statute does not say that a virtual charter school may only apply for authorization with a statewide authorizer, nor does the statute say that a school defined as a virtual charter school may not apply for authorization pursuant to I.C. § 20-24-2.2-1.2 if the school meets the definition of a school within the attendance district of a local public school corporation. Consistent with our discussion, NHJ is hopeful that SBOE will not interpret the ambiguous I.C. § 20-24-7-13(b) to prohibit something that is not prohibited. NHJ possesses the statutory authority to authorize a charter for IATS because IATS is a school located within NHJ's attendance district.

IATS has spent the spring traveling the state and hosting community presentations regarding its program, what it can offer and its plan of providing online courses as well as in-person teaching consistent with its blended model. It has received positive attention from multiple sources including, the agriculture industry, REMC, Farm Bureau, Co-Alliance, as well as the Department of Natural Resources, Morgan & Johnson County Communities, Morgan County Water and Soil, Morgan County Economic Development Corporation and Morgan and Johnson County 4-H. Most importantly, the parents that have heard of the IATS program are looking for a program like this that fits their students' educational needs and goals.

We realize that the ambiguity of the statutory language may be difficult to describe to those that want a simple interpretation, but the uniqueness of the blended model of IATS will be beneficial to the students of the State of Indiana and can assist in the development of agriculture programming for rural schools. We welcome working with you and your colleagues in policy development to brainstorm a solution to address the ambiguities that exist, so that NHJ and IATS can commence operating the IATS school and provide a program for students that many parents have expressed interest in as meeting the unique educational needs of their children.



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Please do not hesitate to contact us for any reason. We are ready and willing to address the concerns of all stakeholders so that there is confidence in our innovative partnership.

Sincerely,

A handwritten signature in cursive script, appearing to read "Timothy Edsell".

Timothy Edsell, Ph.D.
Nineveh-Hensley-Jackson USC Superintendent

Schultz, Timothy A

From: Schultz, Timothy A
Sent: Monday, June 11, 2018 8:51 AM
To: Kwiatkowski, Lee A (GOV)
Subject: FW: follow-up letter
Attachments: SBOE follow-up response 2018.06.08.pdf

Good morning:

I wasn't sure if Matt forwarded this to you, but this is the follow-up we received from Nineveh after our meeting last week. See you at 10.

Timothy A. Schultz
General Counsel
Indiana State Board of Education
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From: Timothy Edsell [mailto:tedsell@nhj.k12.in.us]
Sent: Friday, June 8, 2018 3:46 PM
To: Schultz, Timothy A ; Voors, Matthew (Matt)
Subject: follow-up letter

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June 8, 2018

VIA EMAIL

Matthew Voors, Executive Director
Timothy Schultz, General Counsel
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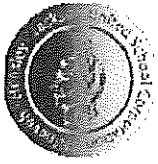
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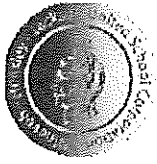
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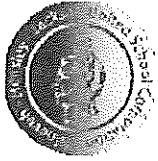
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Indian Creek Schools

IATS's goal is to control its enrollment so that it can deliver quality not quantity. Their year 1 goal is 550 students with minimum of 200 students. To date, IATS has close to 100 students enrolled and continue to enroll daily at an average daily rate around 5 families. IATS has hired staff for school and has already had professional development with its curriculum provider and have more scheduled within the next month.

Based upon the above information, IATS is not simply an online school. Further, the interpretation of I.C. § 20-24-7-13(b) is at best ambiguous. The requirement that IATS be authorized by a "statewide authorizer" is permissive. In that regard, the statute states: "A virtual charter school **may** apply for authorization with any statewide authorizer". I.C. § 20-24-7-13(b) (emphasis added). The statute does not say that a virtual charter school must apply with a statewide authorizer. The statute does not say that a virtual charter school may only apply for authorization with a statewide authorizer, nor does the statute say that a school defined as a virtual charter school may not apply for authorization pursuant to I.C. § 20-24-2.2-1.2 if the school meets the definition of a school within the attendance district of a local public school corporation. Consistent with our discussion, NHJ is hopeful that SBOE will not interpret the ambiguous I.C. § 20-24-7-13(b) to prohibit something that is not prohibited. NHJ possesses the statutory authority to authorize a charter for IATS because IATS is a school located within NHJ's attendance district.

IATS has spent the spring traveling the state and hosting community presentations regarding its program, what it can offer and its plan of providing online courses as well as in-person teaching consistent with its blended model. It has received positive attention from multiple sources including, the agriculture industry, REMC, Farm Bureau, Co-Alliance, as well as the Department of Natural Resources, Morgan & Johnson County Communities, Morgan County Water and Soil, Morgan County Economic Development Corporation and Morgan and Johnson County 4-H. Most importantly, the parents that have heard of the IATS program are looking for a program like this that fits their students' educational needs and goals.

We realize that the ambiguity of the statutory language may be difficult to describe to those that want a simple interpretation, but the uniqueness of the blended model of IATS will be beneficial to the students of the State of Indiana and can assist in the development of agriculture programming for rural schools. We welcome working with you and your colleagues in policy development to brainstorm a solution to address the ambiguities that exist, so that NHJ and IATS can commence operating the IATS school and provide a program for students that many parents have expressed interest in as meeting the unique educational needs of their children.



NINEVEH-HENSLEY-JACKSON UNITED SCHOOL CORPORATION
802 South Indian Creek Drive, Trafalgar, IN 46181
P: 317.878.2100 F: 317.878.5765
www.nhj.k12.in.us

Indian Creek Schools

Please do not hesitate to contact us for any reason. We are ready and willing to address the concerns of all stakeholders so that there is confidence in our innovative partnership.

Sincerely,

A handwritten signature in cursive script, reading "Timothy Edsell", is positioned below the word "Sincerely,".

Timothy Edsell, Ph.D.
Nineveh-Hensley-Jackson USC Superintendent

Schultz, Timothy A

From: Schultz, Timothy A
Sent: Tuesday, June 26, 2018 2:57 PM
To: Kwiatkowski, Lee A (GOV)
Cc: Voors, Matthew (Matt)
Subject: FW: follow-up letter
Attachments: Indiana Agriculture & Technology School - Letter to Melissa Ambre.pdf; 2018 -2019 IATS EDUCATIONAL PROGRAM SUMMARY (1).pdf

Good afternoon:

Please find attached the materials that we recently received from Nineveh. The explanations are somewhat difficult to follow, but ultimately they are representing that less than 50% of the program is virtual in nature.

Timothy A. Schultz
General Counsel
Indiana State Board of Education
(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726
143 W. Market, Suite 500, Indianapolis, IN 46204



INDIANA STATE BOARD OF EDUCATION

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From: Timothy Edsell [mailto:tedsell@nhj.k12.in.us]
Sent: Tuesday, June 26, 2018 2:17 PM
To: Schultz, Timothy A
Cc: Voors, Matthew (Matt)
Subject: Re: follow-up letter

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Mr. Voors and Mr. Schultz,

Per your recent request, I have attached two documents that demonstrate confirmation of IATS being revised to reflect a traditional "brick and mortar" charter school rather than a virtual charter school. The first document is a

letter requested by Melissa Ambre, from IDOE, that verifies the traditional charter school status for IATS for the 2018-19 school year. This letter was created by Mr. Keith Marsh, IATS Chief Administrator and forwarded to me for our records. Second, working in conjunction with IATS school officials, the next document is an Educational Summary of significantly revised curricular and instructional methods and hours that verify the legal requirements to be designated a traditional charter school, of which NHJ authorizes. Please let me know if you need any additional information or resources. Thank you for your communication, cooperation, and consideration.

Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United School Corporation
802 S. Indian Creek Drive
Trafalgar, IN 46181
317-878-2100

"If you want to go to the highest level, you can only do so with the help of others." - John C. Maxwell

GO BRAVES!!!

On Fri, Jun 22, 2018 at 12:33 PM, Schultz, Timothy A <TSchultz1@sboe.in.gov> wrote:

Good afternoon:

During a recent conversation with legal counsel for the Indiana Agricultural and Technology School ("IATS"), he explained that IATS would be submitting information to the Indiana Department of Education that would revise its status from being a virtual charter school to a traditional brick and mortar charter school, which will also result in IATS receiving additional state tuition support.

As the IATS' authorizer, could you please submit confirmation to the Board that IATS no longer qualifies as a virtual charter school. Additionally, please provide a summary of how IATS' education program was revised to be designated as a traditional brick and mortar charter school rather than a virtual charter school.

Timothy A. Schultz

General Counsel

Indiana State Board of Education

(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726

143 W. Market, Suite 500, Indianapolis, IN 46204



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From: Timothy Edsell [<mailto:tedsell@nhj.k12.in.us>]

Sent: Friday, June 8, 2018 3:46 PM

To: Schultz, Timothy A <TSchultz1@sboe.in.gov>; Voors, Matthew (Matt) <MVoors@sboe.in.gov>

Subject: follow-up letter

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Dear Executive Director Voors,

Please see the attached letter as a follow-up from our meeting that occurred this past Wednesday, June 6th. Please let me know if you need any additional information. Thank you for your time and consideration with this matter.

Tim

Tim Edsell, Ph.D.

Superintendent

Nineveh-Hensley-Jackson United School Corporation

802 S. Indian Creek Drive

Trafalgar, IN 46181

317-878-2100

"If you want to go to the highest level, you can only do so with the help of others." - John C. Maxwell

GO BRAVES!!!



Indiana Agriculture &
Technology School

July 22, 2018

Melissa Ambre
Director of School Finance
Indiana Department of Education
115 W. Washington Street
Indianapolis, IN 46204

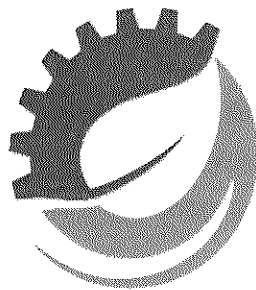
Melissa,

Indiana Agriculture and Technology School (Corp 9505) will open on July 30, 2018 as a traditional charter school under IC 20-24, authorized by the Nineveh Hensley Jackson United School Corporation.

Sincerely,

Keith A. Marsh
Executive Director/Chief Academic Officer

Cc: Dr. Timothy Edsell, Superintendent
Nineveh-Hensley-Jackson United School Corporation



Indiana Agriculture &
Technology School

EDUCATIONAL SUMMARY
2018 - 2019

IDOE DEFINITION OF INSTRUCTIONAL TIME

The instructional time requirements in Indiana for schools are established by state law. These requirements apply regardless of how many semesters make up a school year. Below is a summary of the instructional time and calendars.

- IC 20-30-2-1: Instructional time is time during which students participate in an approved course, curriculum, or an educationally related activity under the direction of a teacher, which includes a reasonable amount of passing time between classes. Instructional time doesn't include lunch or recess.
- IC 20-30-2-2: Requires that the instructional day for grades 1-6 consist of at least 5 hours of instructional time, and the instructional day for grades 7-12 consist of at least 6 hours of instructional time.
- [Waiver Day Policy Memo 2017-2018 School Year](#)

A school that is eligible for the performance-qualified school program may exercise some flexibility around these instructional time requirements. In order to be eligible for the performance-qualified program, a district must receive an A for the previous school year. A district remains designated as a qualified district until it either receives a C or lower for one school year or receives a B or lower for two consecutive school years.

- IC 20-24.2-4-2: Provides that a performance-qualified school does not have to provide 180 student instructional days so long as the total number of instructional minutes provided in a school year meets the required timeframe (e.g., 64,800 minutes for a high school (6 hours * 180 days = 1,080 hours = 64,800 minutes).
- IC 20-30-2-3: For each school year a school must conduct at least 180 instructional days during a school year.
- IC 20-30-2-7: The minimum length of a school year is 9 months.
- IC 20-18-2-17: A school year is defined as a period beginning after June 30 and ending before July 1 of the following year.



INDIANA AGRICULTURE & TECHNOLOGY SCHOOL

SUMMARY OF EDUCATIONAL PROGRAM

Daily Online Instruction Per Instructional Day:

- Instructors: Edgenuity Indiana License Teacher, Concept Coach (Academic Tutor), Success Coach (Counselor), Student Learning Advocate (Indiana Licensed Teacher)
- 240 Minutes (4 Hours Required x 60 Minutes)
- 4 Hours x 60 Minutes = 240 Online Instructional Minutes Per Day
- Actual Instructional Days Online - 131 Days x 240 minutes = 31,440 minutes
- Percentage online per required calendar year 180 days minus 46 Days ADP/Regional Academic Days = 134 Days Online; $32,160/64,800 = 49.6\%$ online instructional time
- **Total Days = 131**

Active Participation Day (ADP):

- Instructors: Agriculture Department Chair, Student Learning Advocates
- Face to Face Teacher Instruction and participation in Supervised Agricultural Experiences with Agriculture ADP at the Farm Campus or Regional Farm Campuses
- August – May at 3 Days Per Month 3 x 10 Months = 30 ADP Instructional Days)
- 6 Hours x 60 Minutes = 360 Instructional Minutes Per Day
- 30 Days x 360 Instructional Minutes = 10,800 Instructional Minutes
- **Total Days = 30**

Farm Week

- Instructors: Agriculture Department Chair, Student Learning Advocates, IATS Support Staff
- Week Long Farm Participation – 5 Days at Morgantown Farm Campus
- Done in March or April 2019
- Instructional Day – 9:00 AM – 3:30 PM (Required)
- 6 Hours x 60 Minutes = 360 Instructional Minutes Per Day
- 5 Days x 360 Instructional Minutes = 1,800 Instructional Minutes
- **Total Days = 5**



INDIANA AGRICULTURE & TECHNOLOGY SCHOOL

SUMMARY OF EDUCATIONAL PROGRAM

All School ADP

- Instructors: Agriculture Department Chair, Student Learning Advocates, IATS Support Staff
- All School ADP – First Friday of each Quarter at Morgantown Farm Campus
- Total Days for All School ADP = 4 Days
- 6 Hours x 60 Minutes = 360 Instructional Minutes Per Day
- 4 Days x 360 Instructional Minutes = 1,440 Instructional Minutes
- Total All School ADP Days = 4

Regional Academic Days

- Instructors: Chief Academic Officer, Student Learning Advocates, IATS Support Staff
- Face to Face Academic Work Day at Regional Location – 9:00 AM – 3:30 PM (6 Hours Instruction/Prepping/Planning)
- September – June at 1 Day Per Month (1 x 10 months = 10 Instructional Days)
- Utilize Ivy Tech Regional Sites to conduct our Regional Academic Days
- 6 Hours x 60 Minutes = 360 Instructional Minutes Per Day
- 10 Days x 360 Instructional Minutes = 3,600 Instructional Minutes
- Total Regional Academic Days = 10

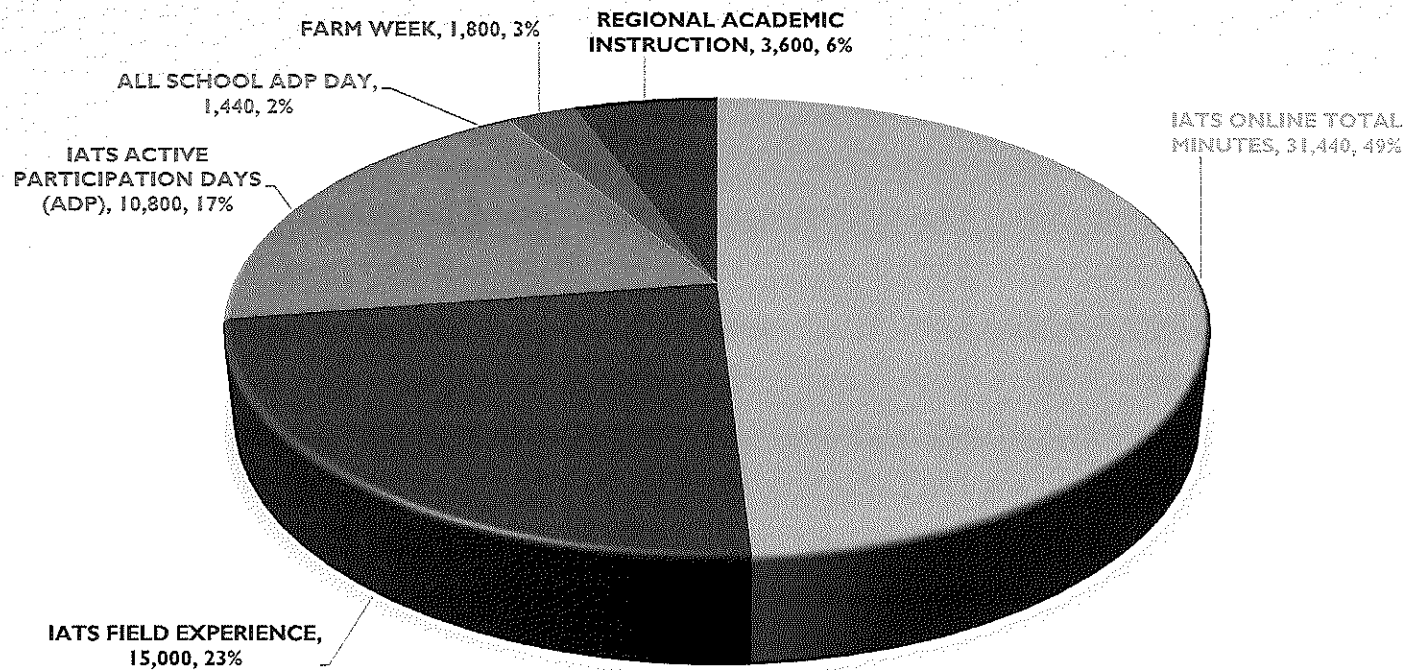
Field Experience

- Instructors: Chief Academic Officer, Agriculture Department Chair, Student Learning Advocates
- Integration of career pathways and agriculture partnerships with our students. Goal is to connect what students learn in our ADP days with real-world experiences and interdisciplinary programs.
- This is part of our Supervised Agriculture Experience (SAE)
- Requirements – Earn 15,000 Field Experience Minutes/250 Total Hours
- Field Experience September - July = 11 Months



Indiana Agriculture &
Technology School

IATS TOTAL INSTRUCTIONAL MINUTES 2018 -2019



INDIANA AGRICULTURE & TECHNOLOGY SCHOOL



Indiana Agriculture &
Technology School

Schultz, Timothy A

From: Schultz, Timothy A
Sent: Wednesday, January 31, 2018 12:07 PM
To: Murphy, Brian (SBOE)
Subject: FW: School Corporation Chartering Authority

Timothy A. Schultz
General Counsel
Indiana State Board of Education
(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726
143 W. Market, Suite 500, Indianapolis, IN 46204



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From: Timothy Edsell [mailto:tedsell@nhj.k12.in.us]
Sent: Thursday, January 25, 2018 1:21 PM
To: Schultz, Timothy A
Subject: Re: School Corporation Chartering Authority

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Thank you for your email. Yes, I am aware of this statute and we, NHJUSC, are the authorizing agent for this new charter school that operates within our attendance boundaries.

Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United School Corporation
802 S. Indian Creek Drive
Trafalgar, IN 46181
317-878-2100

"If you want to go to the highest level, you can only do so with the help of others." - John C. Maxwell

GO BRAVES!!!

On Tue, Jan 23, 2018 at 3:51 PM, Schultz, Timothy A <TSchultz1@sboe.in.gov> wrote:

Good afternoon:

Hope you are doing well. This is a follow-up to your school corporation's registration with the Board for chartering authority per IC 20-24-2.2-1.2. Our office has received some inquiries regarding chartering authority granted by this statute, and at the risk of providing you with information you already have, I thought it would be prudent to send you the text of that statute, which states in part:

IC 20-24-2.2-1.2 Registration with state board for chartering authority

Sec. 1.2. (a) This section applies to an authorizer described in IC 20-24-1-2.5(1), IC 20-24-1-2.5(2), and IC 20-24-1-2.5(5) if the authorizer has not previously issued a charter

for any charter school prior to July 1, 2015.

(b) A governing body of a school corporation may register with the state board for charter authority within the attendance area of the school corporation. The state board shall post on

the state board's Internet web site an application received from an authorizer to register with the state board under this section within ten (10) days after receipt of the application. The

state board may not charge an authorizer a fee to register with the state board under this section.

The area we have received some questions about pertains to subpart (b), which explains that the chartering authority granted by this statute is limited to the attendance area of the school corporation. Again, I realize I am probably sending you information that you are already aware of, but I figured better safe than sorry.

If you have any questions please do not hesitate to contact me. Have a great day.

Timothy A. Schultz

General Counsel

Indiana State Board of Education

(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726

143 W. Market, Suite 500, Indianapolis, IN 46204



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Schultz, Timothy A

From: Schultz, Timothy A
Sent: Wednesday, January 31, 2018 12:11 PM
To: Betley, James R (ICSB)
Subject: FW: School Corporation Chartering Authority

Timothy A. Schultz
General Counsel
Indiana State Board of Education
(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726
143 W. Market, Suite 500, Indianapolis, IN 46204



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Sent: Thursday, January 25, 2018 1:21 PM
To: Schultz, Timothy A
Subject: Re: School Corporation Chartering Authority

*** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ***

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Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United School Corporation
802 S. Indian Creek Drive
Trafalgar, IN 46181
317-878-2100

"If you want to go to the highest level, you can only do so with the help of others." - John C. Maxwell

GO BRAVES!!!

On Tue, Jan 23, 2018 at 3:51 PM, Schultz, Timothy A <TSchultz1@sboe.in.gov> wrote:

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for any charter school prior to July 1, 2015.

(b) A governing body of a school corporation may register with the state board for charter authority within the attendance area of the school corporation. The state board shall post on

the state board's Internet web site an application received from an authorizer to register with the state board under this section within ten (10) days after receipt of the application. The

state board may not charge an authorizer a fee to register with the state board under this section.

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If you have any questions please do not hesitate to contact me. Have a great day.

Timothy A. Schultz

General Counsel

Indiana State Board of Education

(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726

143 W. Market, Suite 500, Indianapolis, IN 46204



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From: Keith Marsh [mailto:kmarsh@indiana.ag]

Sent: Saturday, March 17, 2018 10:19 PM

To: Ambre, Melissa <mambre@doe.in.gov>

Cc: Allan Sutherlin <asutherlin@indiana.ag>; John Curtis <jcurtis@indiana.ag>

Subject: Re: New Charter School ADM Estimate for FY 2019

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You are welcome. Enjoy your weekend as well.

Sent from my iPhone

On Mar 17, 2018, at 9:51 PM, Ambre, Melissa <mambre@doe.in.gov> wrote:

Thank you for the quick response.

Enjoy the weekend!

Melissa K. Ambre

Director of School Finance

Indiana Department of Education

(317) 232-0841 | mambre@doe.in.gov

www.doe.in.gov | Feedback: [How are we doing?](#)

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From: Keith Marsh [mailto:kmarsh@indiana.ag]

Sent: Saturday, March 17, 2018 9:50 PM

To: Ambre, Melissa <mambre@doe.in.gov>

Cc: Allan Sutherlin <asutherlin@indiana.ag>; John Curtis <jcurtis@indiana.ag>

Subject: Re: New Charter School ADM Estimate for FY 2019

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hi Melissa,

It is a virtual charter school.

Keith

Sent from my iPhone

On Mar 17, 2018, at 9:46 PM, Ambre, Melissa <mambre@doe.in.gov> wrote:

Keith

Good evening. Can you tell me if the school a virtual charter school?

Thanks,

Melissa K. Ambre

Director of School Finance

Indiana Department of Education

(317) 232-0841 | mambre@doe.in.gov

www.doe.in.gov | Feedback: [How are we doing?](#)

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From: Keith Marsh [<mailto:kmarsh@indiana.ag>]

Sent: Wednesday, March 14, 2018 8:25 AM

To: Ambre, Melissa <mambre@doe.in.gov>

Cc: Allan Sutherlin <asutherlin@indiana.ag>; John Curtis <jcurtis@indiana.ag>

Subject: Re: New Charter School ADM Estimate for FY 2019

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Hi Melissa,

Authorizer: Nineveh-Hensley-Jackson United School Corporation (4255)

Address: Farm Campus - 1982 S. Morgantown Road Morgantown, IN 46160

Administrative Office - 650 East Carmel Drive, Suite 125 Carmel, IN 46032

School District: Nineveh-Hensley-Jackson United Schools

Let me know if you have any other questions.

Thank you-

Keith A. Marsh

Executive Director/Chief Academic Officer

650 East Carmel Drive, Suite 125

Carmel, IN 46032

Cell: (317) 201-8734

Office/Fax: (317) 975-2746 Ext. 700

Office/Fax: (888) 243-2988

www.indiana.ag

Follow us on Social Media



From: Ambre, Melissa <mambre@doe.in.gov>

Sent: Wednesday, March 14, 2018 7:48:19 AM

To: Keith Marsh

Cc: Allan Sutherlin; John Curtis; Ambre, Melissa

Subject: RE: New Charter School ADM Estimate for FY 2019

Keith

Who is the authorizer for the new charter school? What is the address of the charter school and in what public school district is it located?

Thanks,

Melissa K. Ambre

Director of School Finance

Indiana Department of Education

(317) 232-0841 | mambre@doe.in.gov

www.doe.in.gov | Feedback: [How are we doing?](#)

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From: Keith Marsh [<mailto:kmarsh@indiana.ag>]

Sent: Tuesday, March 13, 2018 6:53 PM

To: Ambre, Melissa <mambre@doe.in.gov>

Cc: Allan Sutherlin <asutherlin@indiana.ag>; John Curtis <jcurtis@indiana.ag>

Subject: New Charter School ADM Estimate for FY 2019

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Melissa,

Please find attached the following documents:

1. New Charter School ADM Estimate for FY 2019
2. W-9 Form
3. Automated Direct Deposit Authorization Agreement
4. Voided Check

Please let me know if you have any questions. Thank you.

Keith A. Marsh

Executive Director/Chief Academic Officer

650 East Carmel Drive, Suite 125

Carmel, IN 46032

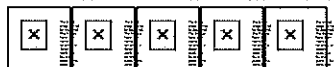
Cell: (317) 201-8734

Office/Fax: (317) 975-2746 Ext. 700

Office/Fax: (888) 243-2988

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Schultz, Timothy A

From: Schultz, Timothy A
Sent: Thursday, May 31, 2018 3:35 PM
To: 'tedsell@nhj.k12.in.us'
Cc: Voors, Matthew (Matt)
Subject: Notice Letter
Attachments: Signed Notice (5-31-18).pdf

Good afternoon:

Please find attached the letter that we discussed during our phone call earlier today. As we mentioned, please do not hesitate to contact either Matt or myself with any questions that you have. Matt's contact information is:

Matthew Voors
Executive Director
Indiana State Board of Education
(O) 317.232.0963
143 W. Market, Suite 500, Indianapolis, IN 46204

Timothy A. Schultz
General Counsel
Indiana State Board of Education
(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726
143 W. Market, Suite 500, Indianapolis, IN 46204



INDIANA STATE BOARD OF EDUCATION

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INDIANA STATE BOARD OF EDUCATION

Dr. Timothy Edsell
Nineveh-Hensley-Jackson USC
802 S Indian Creek Drive
Trafalgar, IN 46181

Re: Indiana Agriculture and Technology School

Dear Dr. Edsell,

The State Board of Education has recently become aware of a potential issue with Nineveh-Hensley-Jackson United School Corporation's ("NHJ") authorization of Indiana Agricultural and Technology School ("IATS") as a virtual charter school. Specifically, the information provided indicates that NHJ may not be in compliance with the provisions contained in IC 20-24 and its charter authorizer application that was submitted to the Indiana State Board of Education ("Board").

Indiana Law Regarding Registration of a School Corporation to Serve as an Authorizer

Indiana Code 20-24-2.2-1.2(b) defines the extent to which a school corporation may serve as authorizer for a charter school. Specifically, that section explains that a "governing body of a school corporation may register with the state board for charter authority **within the attendance area of the school corporation.**" (Emphasis added).

In contrast, IC 20-24-2.2-1.2(c) identifies the entities that may serve as authorizers for broader geographic areas. That section provides that a "governing board of a nonprofit college or university described in IC 20-24-1-2.5(5) may apply to the state board for **statewide, regional, or local chartering authority.**" (Emphasis added). Under this statutory framework, a school corporation's chartering authority is limited to chartering a school within its attendance area, while institutions of higher education may serve as a charter authorizer for a broader geographic area.

Indiana Law Regarding Authorizer Registration Requirements

IC 20-24-2.2-1.2(d) prescribes what information and representations a school corporation must make when registering as a charter school authorizer:

To register as an authorizer, each interested governing body must submit the following information in a format prescribed by the state board:

- (1) A written notification of intent to serve as a charter authorizer in accordance with this article.
- (2) An explanation of the governing body's strategic vision for chartering.
- (3) An explanation of the governing body's budget and personnel capacity and commitment to execute the duties of quality charter authorizing in accordance with this article.
- (4) An explanation of how the governing body will solicit charter school applicants in accordance with IC 20-24-3.

- (5) A description or outline of the performance framework the governing body will use to guide the establishment of a charter contract and for the oversight and evaluation of charter schools, consistent with this article.
- (6) A draft of the governing body's renewal, revocation, and nonrenewal processes, consistent with this article.
- (7) A statement of assurance that the governing body commits to serving as a charter authorizer in fulfillment of the expectations, spirit, and intent of this article, and that the governing body will fully adopt standards of quality charter school authorizing in accordance with section 1.5 of this chapter.

NHJ Registration:

On June 29, 2017, NHJ submitted to the Board an application (attached) to register for charter authority within its attendance area. As explained above, a requesting school corporation must comply with the requirements contained in IC 20-24 (governing charter school operations) and provide a statement of assures confirming the school corporation's intent to comply with the provisions contained in IC 20-24.

As required by IC 20-24-2.2-1.2, the application submitted by NHJUSC contained a notification of intent which stated that NHJUSC "seeks to register with the [Board] for charter authority **within the attendance area of the Corporation.**" Additionally, the application contained a statement of assurances, which contained the following relevant provisions:

- 2. Authorizer shall operate in compliance with all applicable federal and state laws, including Indiana Charter Schools Law as described in all relevant sections of IC § 20-24.
- ***
- 4. Authorizer will ensure that any charter schools that it authorizes will comply with all provisions of the Non regulatory Guidance—Public Charter Schools Program of the U.S. Department of Education, as well as with applicable Indiana law. See also relevant sections of IC § 20-24.
- ***
- 8. Authorizer understands that the Board may revoke its authorizer status if the Boards deems that the Authorizer is not fulfilling its legal and operational responsibilities outlined in Indiana law.

On August 3, 2017, Board staff issued a letter to NHJ confirming that the corporation's application satisfied the requirements of IC 20-24-2.2-1.2 and that the school corporation could "engage in charter authorizing functions within the attendance area of the school corporation."

Events Subsequent to NHJUSC's Registration:

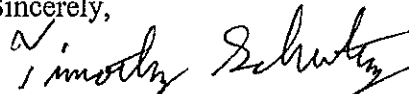
It is the Board's understanding that subsequent to NHJ's registration to become an authorizer and engage in charter authorizing functions within its attendance area, it has entered into a charter authorizing the creation of a virtual charter school¹ known as IATS.² Based on information obtained by the Board, IATS will begin operation in July 2018 and the students attending the school will do the majority of the traditional coursework online.

Under Indiana law, the type of entity that may authorize a virtual charter school is limited. Virtual charter schools are governed by IC 20-24-7-13, which explains that a "virtual charter school may apply for authorization with any **statewide authorizer** in accordance with the authorizer's guidelines."

As noted above, IC 20-24-2.2-1.2 limits the ability of school corporations to authorize charter schools within the attendance area of the school corporation. While a virtual school like IATS is permissible, Indiana law requires that it be authorized by a statewide authorizer, not a local school corporation.

It is imperative that NHJ address this issue as quickly as possible as failure to do so violates Indiana law and may result in the Board taking the appropriate action.

Sincerely,



Timothy Schultz, General Counsel
State Board of Education

¹ See IC 20-24-7-13.

² <https://indiana.ag/>

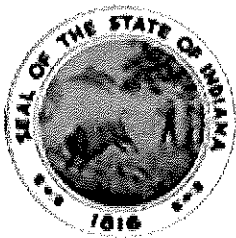
Schultz, Timothy A

From: Murphy, Brian (SBOE)
Sent: Thursday, March 15, 2018 4:25 PM
To: Schultz, Timothy A
Subject: RE: charter application

Will do.

Brian Murphy
Chief of Staff

Indiana State Board of Education
(O) 317.233.6809 | www.in.gov/sboe | F: 317.233.6632
143 W. Market, Suite 500, Indianapolis, IN 46204



INDIANA STATE BOARD OF EDUCATION

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From: Schultz, Timothy A
Sent: Thursday, March 15, 2018 11:46 AM
To: Murphy, Brian (SBOE)
Subject: charter application

Brian:

Not sure if we have this on our website, but as I review the questions regarding Nineveh, I wanted to make sure that we had posted their application on the website per IC 20-24-2.2-1.2(b), which reads:

(b) A governing body of a school corporation may register with the state board for charter authority within the attendance area of the school corporation. The state board shall post on the state board's Internet web site an application received from an authorizer to register with the state board under this section within ten (10) days after receipt of the application. The state board may not charge an authorizer a fee to register with the state board under this section.

Let me know if you have any questions.

Timothy A. Schultz
General Counsel
Indiana State Board of Education
(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726
143 W. Market, Suite 500, Indianapolis, IN 46204



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Schultz, Timothy A

From: Timothy Edsell <tedsell@nhj.k12.in.us>
Sent: Friday, June 22, 2018 1:14 PM
To: Schultz, Timothy A
Cc: Voors, Matthew (Matt)
Subject: Re: follow-up letter

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Thank you Mr. Schultz and Mr. Voors for your email. I will work on this request over the weekend and should be able to send you this information early next week. Thanks again.
Tim

Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United Schools
802 S. Indian Creek Drive
Trafalgar, IN 46181
Phone: 317-878-2100

On Jun 22, 2018, at 12:33 PM, Schultz, Timothy A <TSchultz1@sboe.in.gov> wrote:

Good afternoon:

During a recent conversation with legal counsel for the Indiana Agricultural and Technology School ("IATS"), he explained that IATS would be submitting information to the Indiana Department of Education that would revise its status from being a virtual charter school to a traditional brick and mortar charter school, which will also result in IATS receiving additional state tuition support.

As the IATS' authorizer, could you please submit confirmation to the Board that IATS no longer qualifies as a virtual charter school. Additionally, please provide a summary of how IATS' education program was revised to be designated as a traditional brick and mortar charter school rather than a virtual charter school.

Timothy A. Schultz
General Counsel
Indiana State Board of Education
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From: Timothy Edsell [<mailto:tedsell@nhj.k12.in.us>]

Sent: Friday, June 8, 2018 3:46 PM

To: Schultz, Timothy A <TSchultz1@sboe.in.gov>; Voors, Matthew (Matt)
<MVoors@sboe.in.gov>

Subject: follow-up letter

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Dear Executive Director Voors,

Please see the attached letter as a follow-up from our meeting that occurred this past Wednesday, June 6th. Please let me know if you need any additional information. Thank you for your time and consideration with this matter.

Tim

Tim Edsell, Ph.D.

Superintendent

Nineveh-Hensley-Jackson United School Corporation

802 S. Indian Creek Drive

Trafalgar, IN 46181

317-878-2100

"If you want to go to the highest level, you can only do so with the help of others." - John C. Maxwell

GO BRAVES!!!

Schultz, Timothy A

From: Schultz, Timothy A
Sent: Friday, June 22, 2018 12:33 PM
To: Timothy Edsell; Voors, Matthew (Matt)
Subject: RE: follow-up letter

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Timothy A. Schultz
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Sent: Friday, June 8, 2018 3:46 PM
To: Schultz, Timothy A ; Voors, Matthew (Matt)
Subject: follow-up letter

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Tim Edsell, Ph.D.
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GO BRAVES!!!

Schultz, Timothy A

From: Timothy Edsell <tedsell@nhj.k12.in.us>
Sent: Tuesday, June 26, 2018 2:17 PM
To: Schultz, Timothy A
Cc: Voors, Matthew (Matt)
Subject: Re: follow-up letter
Attachments: Indiana Agriculture & Technology School - Letter to Melissa Ambre.pdf; 2018 -2019 IATS EDUCATIONAL PROGRAM SUMMARY (1).pdf

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Mr. Voors and Mr. Schultz,

Per your recent request, I have attached two documents that demonstrate confirmation of IATS being revised to reflect a traditional "brick and mortar" charter school rather than a virtual charter school. The first document is a letter requested by Melissa Ambre, from IDOE, that verifies the traditional charter school status for IATS for the 2018-19 school year. This letter was created by Mr. Keith Marsh, IATS Chief Administrator and forwarded to me for our records. Second, working in conjunction with IATS school officials, the next document is an Educational Summary of significantly revised curricular and instructional methods and hours that verify the legal requirements to be designated a traditional charter school, of which NHJ authorizes. Please let me know if you need any additional information or resources. Thank you for your communication, cooperation, and consideration.

Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United School Corporation
802 S. Indian Creek Drive
Trafalgar, IN 46181
317-878-2100

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GO BRAVES!!!

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Timothy A. Schultz

General Counsel

Indiana State Board of Education

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From: Timothy Edsell [<mailto:tedsell@nhj.k12.in.us>]

Sent: Friday, June 8, 2018 3:46 PM

To: Schultz, Timothy A <TSchultz1@sboe.in.gov>; Voors, Matthew (Matt) <MVoors@sboe.in.gov>

Subject: follow-up letter

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Tim

Tim Edsell, Ph.D.

Superintendent

Nineveh-Hensley-Jackson United School Corporation

802 S. Indian Creek Drive

Trafalgar, IN 46181

317-878-2100

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GO BRAVES!!!



Indiana Agriculture &
Technology School

July 22, 2018

Melissa Ambre
Director of School Finance
Indiana Department of Education
115 W. Washington Street
Indianapolis, IN 46204

Melissa,

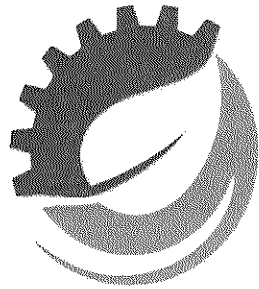
Indiana Agriculture and Technology School (Corp 9505) will open on July 30, 2018 as a traditional charter school under IC 20-24, authorized by the Nineveh Hensley Jackson United School Corporation.

Sincerely,

A handwritten signature in black ink, appearing to read "Keith A. Marsh".

Keith A. Marsh
Executive Director/Chief Academic Officer

Cc: Dr. Timothy Edsell, Superintendent
Nineveh-Hensley-Jackson United School Corporation



Indiana Agriculture &
Technology School

EDUCATIONAL SUMMARY
2018 - 2019

IDOE DEFINITION OF INSTRUCTIONAL TIME

The instructional time requirements in Indiana for schools are established by state law. These requirements apply regardless of how many semesters make up a school year. Below is a summary of the instructional time and calendars.

- IC 20-30-2-1: Instructional time is time during which students participate in an approved course, curriculum, or an educationally related activity under the direction of a teacher, which includes a reasonable amount of passing time between classes. Instructional time doesn't include lunch or recess.
- IC 20-30-2-2: Requires that the instructional day for grades 1-6 consist of at least 5 hours of instructional time, and the instructional day for grades 7-12 consist of at least 6 hours of instructional time.
- [Waiver Day Policy Memo 2017-2018 School Year](#)

A school that is eligible for the performance-qualified school program may exercise some flexibility around these instructional time requirements. In order to be eligible for the performance-qualified program, a district must receive an A for the previous school year. A district remains designated as a qualified district until it either receives a C or lower for one school year or receives a B or lower for two consecutive school years.

- IC 20-24.2-4-2: Provides that a performance-qualified school does not have to provide 180 student instructional days so long as the total number of instructional minutes provided in a school year meets the required timeframe (e.g., 64,800 minutes for a high school (6 hours * 180 days = 1,080 hours = 64,800 minutes)).
- IC 20-30-2-3: For each school year a school must conduct at least 180 instructional days during a school year.
- IC 20-30-2-7: The minimum length of a school year is 9 months.
- IC 20-18-2-17: A school year is defined as a period beginning after June 30 and ending before July 1 of the following year.



INDIANA AGRICULTURE & TECHNOLOGY SCHOOL

SUMMARY OF EDUCATIONAL PROGRAM

Daily Online Instruction Per Instructional Day:

- Instructors: Edgenuity Indiana License Teacher, Concept Coach (Academic Tutor), Success Coach (Counselor), Student Learning Advocate (Indiana Licensed Teacher)
- 240 Minutes (4 Hours Required x 60 Minutes)
- 4 Hours x 60 Minutes = 240 Online Instructional Minutes Per Day
- Actual Instructional Days Online - 131 Days x 240 minutes = 31,440 minutes
- Percentage online per required calendar year 180 days minus 46 Days ADP/Regional Academic Days = 134 Days Online; $32,160/64,800 = 49.6\%$ online instructional time
- **Total Days = 131**

Active Participation Day (ADP):

- Instructors: Agriculture Department Chair, Student Learning Advocates
- Face to Face Teacher Instruction and participation in Supervised Agricultural Experiences with Agriculture ADP at the Farm Campus or Regional Farm Campuses
- August – May at 3 Days Per Month 3 x 10 Months = 30 ADP Instructional Days)
- 6 Hours x 60 Minutes = 360 Instructional Minutes Per Day
- 30 Days x 360 Instructional Minutes = 10,800 Instructional Minutes
- **Total Days = 30**

Farm Week

- Instructors: Agriculture Department Chair, Student Learning Advocates, IATS Support Staff
- Week Long Farm Participation – 5 Days at Morgantown Farm Campus
- Done in March or April 2019
- Instructional Day – 9:00 AM – 3:30 PM (Required)
- 6 Hours x 60 Minutes = 360 Instructional Minutes Per Day
- 5 Days x 360 Instructional Minutes = 1,800 Instructional Minutes
- **Total Days = 5**



Indiana Agriculture &
Technology School

INDIANA AGRICULTURE & TECHNOLOGY SCHOOL

SUMMARY OF EDUCATIONAL PROGRAM

All School ADP

- Instructors: Agriculture Department Chair, Student Learning Advocates, IATS Support Staff
- All School ADP – First Friday of each Quarter at Morgantown Farm Campus
- Total Days for All School ADP = 4 Days
- 6 Hours x 60 Minutes = 360 Instructional Minutes Per Day
- 4 Days x 360 Instructional Minutes = 1,440 Instructional Minutes
- Total All School ADP Days = 4

Regional Academic Days

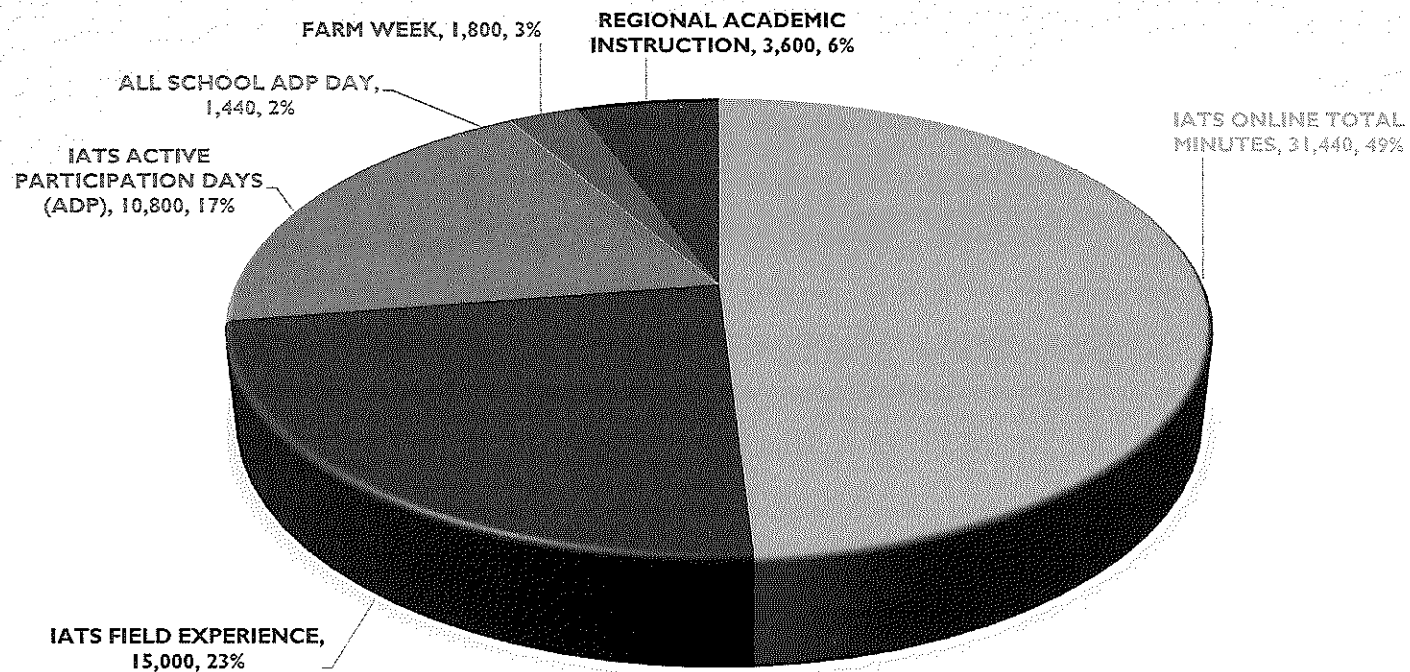
- Instructors: Chief Academic Officer, Student Learning Advocates, IATS Support Staff
- Face to Face Academic Work Day at Regional Location – 9:00 AM – 3:30 PM (6 Hours Instruction/Prepping/Planning)
- September – June at 1 Day Per Month (1 x 10 months = 10 Instructional Days)
- Utilize Ivy Tech Regional Sites to conduct our Regional Academic Days
- 6 Hours x 60 Minutes = 360 Instructional Minutes Per Day
- 10 Days x 360 Instructional Minutes = 3,600 Instructional Minutes
- Total Regional Academic Days = 10

Field Experience

- Instructors: Chief Academic Officer, Agriculture Department Chair, Student Learning Advocates
- Integration of career pathways and agriculture partnerships with our students. Goal is to connect what students learn in our ADP days with real-world experiences and interdisciplinary programs.
- This is part of our Supervised Agriculture Experience (SAE)
- Requirements – Earn 15,000 Field Experience Minutes/250 Total Hours
- Field Experience September - July = 11 Months



IATS TOTAL INSTRUCTIONAL MINUTES 2018 -2019



INDIANA AGRICULTURE & TECHNOLOGY SCHOOL

Schultz, Timothy A

From: Timothy Edsell <tedsell@nhj.k12.in.us>
Sent: Thursday, May 31, 2018 10:59 AM
To: Schultz, Timothy A
Subject: Re: School Corporation Chartering Authority

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Yes, I am available at 2:30 pm today to receive your phone call.

Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United Schools
802 S. Indian Creek Drive
Trafalgar, IN 46181
Phone: 317-878-2100

On May 31, 2018, at 10:22 AM, Schultz, Timothy A <TSchultz1@sboe.in.gov> wrote:

Good morning:

I was hoping that we could set up a time this afternoon to discuss your school corporation's authorizer program. Specifically, I was hoping to discuss the virtual charter school the corporation has recently authorized.

I am available any time after 2:30. Thank you.

Timothy A. Schultz

General Counsel

Indiana State Board of Education

(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726

143 W. Market, Suite 500, Indianapolis, IN 46204

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From: Timothy Edsell [<mailto:tedsell@nhj.k12.in.us>]
Sent: Thursday, January 25, 2018 1:21 PM
To: Schultz, Timothy A <TSchultz1@sboe.in.gov>
Subject: Re: School Corporation Chartering Authority

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Thank you for your email. Yes, I am aware of this statute and we, NHJUSC, are the authorizing agent for this new charter school that operates within our attendance boundaries.

Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United School Corporation
802 S. Indian Creek Drive
Trafalgar, IN 46181
317-878-2100

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GO BRAVES!!!

On Tue, Jan 23, 2018 at 3:51 PM, Schultz, Timothy A <TSchultz1@sboe.in.gov> wrote:

Good afternoon:

Hope you are doing well. This is a follow-up to your school corporation's registration with the Board for chartering authority per IC 20-24-2.2-1.2. Our office has received some inquiries regarding chartering authority granted by this statute, and at the risk of providing you with information you already have, I thought it would be prudent to send you the text of that statute, which states in part:

IC 20-24-2.2-1.2 Registration with state board for chartering authority

Sec. 1.2. (a) This section applies to an authorizer described in IC 20-24-1-2.5(1), IC 20-24-1-2.5(2), and IC 20-24-1-2.5(5) if the authorizer has not previously issued a charter

for any charter school prior to July 1, 2015.

(b) A governing body of a school corporation may register with the state board for charter authority within the attendance area of the school corporation. The state board shall post on

the state board's Internet web site an application received from an authorizer to register with the state board under this section within ten (10) days after receipt of the application. The

state board may not charge an authorizer a fee to register with the state board under this section.

The area we have received some questions about pertains to subpart (b), which explains that the chartering authority granted by this statute is limited to the attendance area of the school corporation. Again, I realize I am probably sending you information that you are already aware of, but I figured better safe than sorry.

If you have any questions please do not hesitate to contact me. Have a great day.

Timothy A. Schultz

General Counsel

Indiana State Board of Education

(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726

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Schultz, Timothy A

From: Schultz, Timothy A
Sent: Thursday, May 31, 2018 10:22 AM
To: Timothy Edsell
Subject: RE: School Corporation Chartering Authority

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Indiana State Board of Education
(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726
143 W. Market, Suite 500, Indianapolis, IN 46204



INDIANA STATE BOARD OF EDUCATION

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From: Timothy Edsell [mailto:tedsell@nhj.k12.in.us]
Sent: Thursday, January 25, 2018 1:21 PM
To: Schultz, Timothy A
Subject: Re: School Corporation Chartering Authority

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Thank you for your email. Yes, I am aware of this statute and we, NHJUSC, are the authorizing agent for this new charter school that operates within our attendance boundaries.

Tim Edsell, Ph.D.

Superintendent
Nineveh-Hensley-Jackson United School Corporation
802 S. Indian Creek Drive
Trafalgar, IN 46181
317-878-2100

"If you want to go to the highest level, you can only do so with the help of others." - John C. Maxwell

GO BRAVES!!!

On Tue, Jan 23, 2018 at 3:51 PM, Schultz, Timothy A <TSchultz1@sboe.in.gov> wrote:

Good afternoon:

Hope you are doing well. This is a follow-up to your school corporation's registration with the Board for chartering authority per IC 20-24-2.2-1.2. Our office has received some inquiries regarding chartering authority granted by this statute, and at the risk of providing you with information you already have, I thought it would be prudent to send you the text of that statute, which states in part:

IC 20-24-2.2-1.2 Registration with state board for chartering authority

Sec. 1.2. (a) This section applies to an authorizer described in IC 20-24-1-2.5(1), IC 20-24-1-2.5(2), and IC 20-24-1-2.5(5) if the authorizer has not previously issued a charter

for any charter school prior to July 1, 2015.

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the state board's Internet web site an application received from an authorizer to register with the state board under this section within ten (10) days after receipt of the application. The

state board may not charge an authorizer a fee to register with the state board under this section.

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If you have any questions please do not hesitate to contact me. Have a great day.

Timothy A. Schultz

General Counsel

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Timothy A. Schultz

General Counsel

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Schultz, Timothy A

From: Schultz, Timothy A
Sent: Thursday, May 31, 2018 12:11 PM
To: Timothy Edsell
Subject: RE: School Corporation Chartering Authority

Great, I will call you at 2:30.

Timothy A. Schultz
General Counsel
Indiana State Board of Education
(O) 317.233.4088 | www.in.gov/sboe | F: 317.234.8726
143 W. Market, Suite 500, Indianapolis, IN 46204



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From: Timothy Edsell [mailto:tedsell@nhj.k12.in.us]
Sent: Thursday, May 31, 2018 10:59 AM
To: Schultz, Timothy A
Subject: Re: School Corporation Chartering Authority

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Yes, I am available at 2:30 pm today to receive your phone call.

Tim Edsell, Ph.D.
Superintendent
Nineveh-Hensley-Jackson United Schools
802 S. Indian Creek Drive
Trafalgar, IN 46181
Phone: 317-878-2100

On May 31, 2018, at 10:22 AM, Schultz, Timothy A <TSchultz1@sboe.in.gov> wrote:

Good morning:

I was hoping that we could set up a time this afternoon to discuss your school corporation's authorizer program. Specifically, I was hoping to discuss the virtual charter school the corporation has recently authorized.

I am available any time after 2:30. Thank you.

Timothy A. Schultz
General Counsel
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Timothy A. Schultz

General Counsel

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Schultz, Timothy A

From: Schultz, Timothy A
Sent: Friday, June 29, 2018 3:23 PM
To: 'Timothy Edsell'
Cc: Voors, Matthew (Matt); Bugalla, Marsha
Subject: RE: follow-up letter
Attachments: NHJ Follow Up Letter re IATS Status (6-29-18) - signed.pdf

Good afternoon:

Please find attached a letter responding to the materials that you recently provided to Board staff. We appreciate the time and effort that you have taken out of your busy schedule to work with us as we reviewed the issues identified in my May 31st correspondence. I believe that the attached letter should address any unresolved issues in this matter, but if you have any questions or further concerns please do not hesitate to contact me.

Have a great weekend.

Timothy A. Schultz
General Counsel
Indiana State Board of Education
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From: Timothy Edsell [mailto:tedsell@nhj.k12.in.us]
Sent: Tuesday, June 26, 2018 2:17 PM
To: Schultz, Timothy A <TSchultz1@sboe.in.gov>
Cc: Voors, Matthew (Matt) <MVoors@sboe.in.gov>
Subject: Re: follow-up letter

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Mr. Voors and Mr. Schultz,

General Counsel

Indiana State Board of Education

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From: Timothy Edsell [mailto:tedsell@nhj.k12.in.us]

Sent: Friday, June 8, 2018 3:46 PM

To: Schultz, Timothy A <TSchultz1@sboe.in.gov>; Voors, Matthew (Matt) <MVoors@sboe.in.gov>

Subject: follow-up letter

**** This is an EXTERNAL email. Exercise caution. DO NOT open attachments or click links from unknown senders or unexpected email. ****

Dear Executive Director Voors,

Please see the attached letter as a follow-up from our meeting that occurred this past Wednesday, June 6th. Please let me know if you need any additional information. Thank you for your time and consideration with this matter.



INDIANA STATE BOARD OF EDUCATION

June 29, 2018

Dr. Timothy Edsell
Nineveh-Hensley-Jackson USC
802 S Indian Creek Drive
Trafalgar, IN 46181

Re: Indiana Agriculture and Technology School

Dear Dr. Edsell,

Thank you for the opportunity to meet with you, your counsel, and representatives from Indiana Agricultural and Technology School ("IATS") on June 6th, as well as your June 8th and June 26th, 2018 correspondence. As I indicated in our May 31, 2018 letter and when we met, the State Board of Education ("Board") had recently become aware of a potential issue with Nineveh-Hensley-Jackson United School Corporation's ("NHJ") authorization of IATS. Specifically, based on information provided to Board staff, there was concern that NHJ was not in compliance with IC 20-24 and its charter authorizer application that was submitted to the Board.

According to the materials provided on June 26th, IATS has represented to the Indiana Department of Education ("IDOE") that the school will operate as a traditional brick and mortar charter school rather than a virtual charter school as IATS had originally represented to IDOE in March of this year. While this change brings NHJ into compliance with the authorizer statute under which it registered, it limits the amount of virtual instruction IATS may provide to its students. I have reviewed the materials NHJ submitted on June 26th, including the "Educational Summary", describing the allocation of instructional time. Based on those materials, NHJ and IATS have unequivocally committed to ensuring that no less than 50% of IATS' instructional program will be delivered virtually.

Before addressing IATS' new status, I believe it would prudent to reiterate our legal analysis of the controlling Indiana law.

Legal Analysis of Relevant Statutes as Applied to NJH and IATS

I. NHJ's Registration as a Charter Authorizer and Statutory Limitations

Indiana Code 20-24-2.2-1.2(b) specifically limits the extent to which a school corporation may serve as authorizer for a charter school. Specifically, that section explains that a "governing body of a school corporation may register with the state board for charter authority **within the attendance area of the school corporation.**" (Emphasis added).

IC 20-24-2.2-1.2(d) prescribes what information and representations a school corporation must make when registering as a charter school authorizer:

To register as an authorizer, each interested governing body must submit the following information in a format prescribed by the state board:

- (1) A written notification of intent to serve as a charter authorizer in accordance with this article.
- (2) An explanation of the governing body's strategic vision for chartering.
- (3) An explanation of the governing body's budget and personnel capacity and commitment to execute the duties of quality charter authorizing in accordance with this article.
- (4) An explanation of how the governing body will solicit charter school applicants in accordance with IC 20-24-3.
- (5) A description or outline of the performance framework the governing body will use to guide the establishment of a charter contract and for the oversight and evaluation of charter schools, consistent with this article.
- (6) A draft of the governing body's renewal, revocation, and nonrenewal processes, consistent with this article.
- (7) A statement of assurance that the governing body commits to serving as a charter authorizer in fulfillment of the expectations, spirit, and intent of this article, and that the governing body will fully adopt standards of quality charter school authorizing in accordance with section 1.5 of this chapter.

A. NHJ Registration

On June 29, 2017, NHJ submitted registration documents to the Board to register for charter authority within its attendance area. As explained above, a requesting school corporation must comply with the requirements contained in IC 20-24 (governing charter school operations) and provide a statement of assurances confirming the school corporation's intent to comply with the provisions contained in IC 20-24.

As required by IC 20-24-2.2-1.2, the documents submitted by NHJ contained a notification of intent that stated that NHJ "seeks to register with the [Board] for charter authority **within the attendance area of the Corporation.**" Additionally, the application contained a statement of assurances, which contained the following relevant representations:

2. **Authorizer shall operate in compliance with all applicable federal and state laws, including Indiana Charter Schools Law as described in all relevant sections of IC § 20-24.**

4. Authorizer will ensure that any charter schools that it authorizes will comply with all provisions of the Non regulatory Guidance—Public Charter Schools Program of the U.S. Department of Education, as well as with applicable Indiana law. See also relevant sections of IC § 20-24.

On August 3, 2017, Board staff issued a letter to NHJ confirming that the corporation's application satisfied the requirements of IC 20-24-2.2-1.2 and that the school corporation could "engage in charter authorizing functions within the attendance area of the school corporation."

B. NHJ Authorization of IATS

It is the Board's understanding that subsequent to NHJ's registration to become an authorizer and engage in charter authorizing functions within its attendance area, it entered into a charter authorizing the creation of a charter school known as IATS,¹ which will begin operations in July 2018. According to the information provided by NHJ, IATS is a blended learning program utilizing both virtual and "hands-on" learning techniques.

Based on the information provided prior to the June 26th materials, the Board was not in possession of information that specifically addressed whether "more than fifty percent (50%) of instruction is provided in an interactive learning environment created through technology in which students are separated from their teacher by time or space, or both."² In fact, as evidenced in the materials NHJ submitted with its registration, the extent to which virtual learning will be utilized appears to play a minor role in overall instructional model. In the registration materials, NHJ included the following statement regarding the use of virtual instruction:

Students interested in learning the science, business, and technology of plant and animal production will gain critical competencies through relevant and rigorous agriculture-based courses (including those offered through virtual learning environment), field experiences, and internships.

The statement above served as the most explicit indication of the role virtual instruction will play in IATS' education model prior to the receipt of materials on June 26th. Nowhere in the NHJ's registration documents did NHJ indicate it intended to authorize a virtual charter school. Absent this information, NHJ's registration appeared to be a school corporation registering as an authorizer for a charter school in its attendance area that will utilize a blended model of instruction—as permitted by IC 20-24-2.2-1.2.

Following NHJ's registration with the Board, the type of school for which you would serve as authorizer appeared to change from a traditional charter school utilizing a blended model to a virtual school. As you know, this change in the instructional model is what precipitated our initial letter and subsequent meeting.

C. Indiana Law Governing the Authorization of Virtual Charter Schools

Under Indiana law, the type of entity that may authorize a virtual charter school is limited. Virtual charter schools are governed by IC 20-24-7-13, which explains that a "virtual charter school may apply for authorization with any **statewide authorizer** in accordance with the authorizer's guidelines." IC 20-24-2.2-1.2(c) identifies the entities that may serve as authorizers for broader geographic areas. That section provides that a "governing board of a nonprofit college or university described in IC 20-24-1-2.5(5) may apply to the state board for **statewide, regional, or local chartering authority**." (Emphasis added). Under

¹ <https://indiana.ag/>

² IC 20-24-7-13(a) (this language reflects the amended version of the statute that will become effective July 1, 2018).

this statutory framework, only institutions of higher education or the Indiana Charter Board³ may serve as a charter authorizer on a statewide basis.

As we discussed when we met, the applicable law limits the ability of local school corporations, such as NHJ, to authorize charter schools within the attendance area of the school corporation. It is the opinion of the Board that to the extent NHJ would attempt to authorize a virtual charter school, NHJ would have exceeded its statutory authority to authorize such a school based on the Board's legal interpretation outlined in the preceding sections of this letter.

II. Determination as to IATS' Status

As previously noted, prior to receiving your June 26th correspondence, insufficient information had been provided to the Board to determine if IATS is a virtual charter school or a traditional brick and mortar charter school. Even if such information had been previously provided, the ultimate decision to determine the status of the school rests with IDOE. IDOE is responsible for making this determination because it is the agency statutorily charged with determining which funding formula applies to charter schools. As you know, virtual charter schools receive state tuition support based on a unique funding formula that differs from traditional brick and mortar charter schools.⁴ As IDOE is responsible for distributing state tuition support⁵ to all charter schools, including virtual charter schools, it would be required to make the official determination regarding IATS' status for funding purposes. Thus, to the extent IDOE were to determine that IATS is a virtual charter school, it is the Board's opinion that the charter is invalid under Indiana law and IATS would not be entitled to state tuition support.

However, while IATS originally informed IDOE that it would operate as a virtual charter school, IATS recently provided IDOE with written confirmation that IATS will be operating as a traditional brick and mortar. Furthermore, you have provided materials to the Board detailing IATS' education program, which asserts that only 49.6% of the program will be virtual in nature. While the Board has no mechanism to independently verify the nature of IATS' education program, it should be noted that as the authorizer, NHJ is responsible for ensuring that every charter school it authorizes is complying with all applicable federal and state laws.⁶ As previously indicated, if IATS is in fact operating as a virtual charter school, then IATS would be receiving state tuition support in excess of what virtual charter schools are entitled to and its charter would be in violation of Indiana law. As the authorizer, NHJ would be accountable for any such violations.

Given that IATS has represented to IDOE that it is now operating as a traditional brick and mortar charter school, which NHJ has subsequently affirmed to the Board, no further action is necessary at this time.

³ See IC 20-24-2.1-1(b).

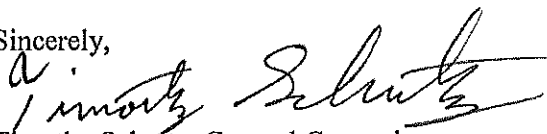
⁴ See IC 20-24-8-3; *see also* NHJ's Statement of Assurances, paragraphs 2 and 4, contained in NHJ's authorizer application.

⁵ See IC 20-24-8-3; *see also* NHJ's Statement of Assurances, paragraphs 2 and 4, contained in NHJ's authorizer application.

⁶ See IC 20-24-8-3; *see also* NHJ's Statement of Assurances, paragraphs 2 and 4, contained in NHJ's authorizer application.

If you have any additional questions please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Timothy Schultz", written over the printed name.

Timothy Schultz, General Counsel
State Board of Education

Copy to (via electronic mail):

Marsha Bugalla, General Counsel
Indiana Department of Education
MBugalla@doe.in.gov