



## INDIANA EDUCATION EMPLOYMENT RELATIONS BOARD

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<http://www.in.gov/ieerb>

### **Request to Convert a General Comment to a Finding of Noncompliance for Purpose of Appeal**

#### **Policy**

Parties may appeal findings of noncompliance, a recommended penalty, or both findings and penalty. 560 Indiana Administrative Code 2-8-6(a). General Comments are not appealable. See *id.*; *Culver Comm. Sch. Corp.*, C-17-161-5455 (IEERB Final Compliance Report 2018).

However, the Board acknowledges that some parties have been frustrated that the inability to appeal a General Comment delays the parties' ability to seek judicial review on the matter in question. To that end, the Board will allow parties to request that the Board convert a General Comment to a Finding of Noncompliance. If the Board grants such a request, the appeal of the Finding of Noncompliance will be conducted pursuant to 560 IAC 2-8-6.

#### **Process**

A party must submit a combined Request to Convert a General Comment to Finding of Noncompliance and Request to Appeal ("the Request") within 15 days of the date of the Compliance Report and Recommendation.

The Request must be in writing, state the basis for the request with reasonable particularity, and be filed electronically at [efile@ieerb.in.gov](mailto:efile@ieerb.in.gov). The basis for the request must address the why the Board should allow the General Comment to be converted to a Finding of Noncompliance, as well as why the determination on the substantive issue should be modified or reversed.

Upon receipt of the Request, the Executive Director will issue a briefing schedule along with date for the hearing and oral argument.

The party's brief in support of the requests must address both the need to convert as well as the appeal of the substantive issue.

Both issues must be addressed in the time allotted for oral argument unless otherwise provided by the Board.

If the Board grants the request to convert the General Comment to a Finding of Noncompliance and affirms the Finding, the Board will add the Finding to the Final Report, strike the original General Comment, and add, affirm, or modify the penalty.

If the Board grants the request to convert the General Comment to a Finding of Noncompliance and reverses the Finding, the Board will add the Finding to the Final Report as a stricken Finding and strike the original General Comment.

The Board will issue a decision within 30 days of the hearing.