

# Guidance on Safe Harbor

(Effective July 1, 2015; updated Dec. 17, 2015)

*Note: Two changes have been made to this document since it was first issued in July. Those changes are: 1) a clarification in the EdChoice Scholarship Program text, page 2, explaining that public school buildings can be removed from the program's eligibility list; and 2) the addition of item 3. b. in the section titled Safe harbor for teachers and principals on page 3.*

The General Assembly directed the Ohio Department of Education to transition to new tests for the 2015-2016 school year in mathematics and English language arts. As part of the transition to new tests, the legislature extended and modified a number of safe harbor provisions.

Safe harbor gives schools, teachers and students time to adjust to the new tests. In most cases, there will no longer be consequences tied to the results of the state tests given in the 2014-2015 and 2015-2016 school years. In some instances, this safe harbor extends to the results of state tests given in the 2016-2017 school year. The consequences of state tests usually impact the following school year. Depending on the provision of safe harbor, this could extend through the 2017-2018 school year.

As part of safe harbor, the Ohio School Report Card will not have an overall letter grade until the report card is released in 2018 (using results from the 2017-2018 school year). All other results and letter grades will be reported on the Ohio School Report Card, just like previous years. While the consequences of state tests are suspended in most cases, the test results and report card are still reported to help inform educators of areas of success and areas for improvement. Address questions to [accountability@education.ohio.gov](mailto:accountability@education.ohio.gov).

This document goes into detail on how safe harbor impacts districts, schools, principals, teachers and students. Most notably, during safe harbor:

- Eligibility for scholarship programs, community school closure and other district interventions are paused;
- Educator evaluations will not include results from state tests; and
- State test scores cannot count against students' grades.

## Safe harbor for school districts:

School districts can become eligible for certain programs or interventions based on their report card performance. Safe harbor for school districts means the following programs or interventions will be suspended:

- **Community School Closure:** Community schools receive one of two report card types. The majority of community schools receive the same traditional report card as other public schools. Community schools that are not performing as expected can be closed in two different ways. First, the community school's sponsor (the entity responsible for the community school) can close the school if it believes the school is underperforming. Most community schools are closed in this manner. The second way community schools can be closed is by meeting certain criteria on the report card. Safe harbor means that the grades published on 2014-2015, 2015-2016 and 2016-2017 report cards will not be used to judge whether a community school should be automatically closed using the method in law. These years will not reset the clock on closure. Safe harbor does not affect a sponsor's ability to close a charter school on its own. Sponsors may still consider the grades from any report card in their decisions. Address questions to [frank.stoy@education.ohio.gov](mailto:frank.stoy@education.ohio.gov).
- **Challenged School District Designation:** When a school district is designated as a "challenged" school district, new startup community schools are allowed to open within the district's boundaries. Safe harbor for these designations means no new school districts will be designated as challenged school districts until the 2018 report card is released. Instead, school districts with this designation will continue to hold their current designation through the 2017-2018 school year.

- **Educational Choice Scholarship Program:** Low-income students and students attending persistently poor performing school buildings can become eligible for vouchers to pay the cost of attending private schools. Safe harbor means that no new public school buildings will be included on the program's eligibility list until the 2019-2020 school year. However, public school buildings could be removed from the eligibility list as indicated in [ORC 3310:03\(B\)\(1\)](#). Results from the tests given in school years 2014-2015, 2015-2016 and 2016-2017 will not be used to identify new public schools for eligibility. Students in all school buildings and school districts will still be eligible for scholarships based on their families' income levels. Address questions to [edchoice@education.ohio.gov](mailto:edchoice@education.ohio.gov).
- **School Restructuring:** When traditional public schools receive low report card grades, there are several laws that require them to restructure or even close. Safe harbor means that no new school buildings will be required to restructure because of state law based on the 2015, 2016 or 2017 report cards. However, there are restructuring requirements included in federal law that are not covered by safe harbor. This portion of safe harbor will likely only affect a few schools.
- **Columbus Parent Trigger Pilot Project:** The parent trigger pilot applies to any school in the Columbus City School District that also is in the bottom 5 percent of achievement statewide. Parents at one of these schools can vote to take over the school and implement a new turnaround model. Safe harbor for the pilot means that no new schools will be eligible for the pilot program based on the 2015, 2016 or 2017 report cards.

The safe harbor for academic distress commissions was not extended. These commissions are formed to help improve the poorest performing school districts in the state. They are formed after three consecutive years of poor results on the report card. There was only a one-year safe harbor for commissions.

This means that the 2015 report card will not be used as part of the three years. However, it will not count as a gap in the consecutive years. The 2015 report card will simply not factor in at all. However, the 2016 report card and after will count toward the three consecutive years.

#### **Safe harbor for teachers and principals:**

Student growth makes up a significant portion of an evaluation for teachers and principals. State tests are one of the ways to calculate this student growth. Because of the transition to new state tests, the General Assembly extended and modified the safe harbor for a small group of educators.

Due to the transition of new assessments, teachers and principals will not use value-added ratings from state tests for the 2014-2015 and 2015-2016 school years as part of their evaluations or when making decisions regarding dismissal, retention, tenure or compensation.

Safe harbor only applies to educators who use value-added ratings from state tests. Safe harbor does not apply to teachers or principals exclusively using vendor tests or other local student growth measures. More than 90 percent of teachers will fully implement the evaluation system with student growth measures in the 2015-2016 and 2016-2017 school years.

Value-added ratings will continue to be generated for state tests so that these educators can benefit from the diagnostic reports. Teachers and principals will not use value-added results for evaluation until results from the state tests administered in the 2016-2017 school year are incorporated into the evaluation ratings in the spring of 2018.

Districts have three options for addressing the student growth measure for any of their teachers or principals who use state value-added results:

1. Districts and educators may enter into a memorandum of understanding (MOU) to allow the continued use of value-added results based on state tests for evaluation;
2. Districts may decide to use student growth measures other than value-added results for evaluations, including approved vendor assessments and student learning objectives (SLOs), to replace value-added results from state tests; or

3. Districts may choose not to use or replace value-added results from 2014-2015 or 2015-2016 and:
  - a. For educators exclusively using value-added results from state tests, only use the educator performance measure to determine the overall evaluation rating; or
  - b. For educators exclusively using value-added results from state tests who are eligible for the [less frequent evaluation cycles](#), only use the educator performance measure or use the 2013-2014 value-added data to determine the overall evaluation rating; or
  - c. For educators partially using value-added results from state tests, only include the remaining student growth measures and the educator performance measure to determine the overall evaluation rating.

The department encourages districts to utilize an option that includes student growth for the evaluation and to analyze the value-added results for diagnostic purposes during these safe harbor years.

See more information on recent changes to the teacher evaluation system on the [teacher evaluation Web pages](#). Address questions about safe harbor to [SGM@education.ohio.gov](mailto:SGM@education.ohio.gov).

### **Safe harbor for students:**

After creating a safe harbor for school districts and teachers, the General Assembly passed House Bill 7 that outlines several ways students may not be impacted by the 2014-2015 state tests. The General Assembly recently extended student safe harbor for another two years to cover the results from the tests given in the 2015-2016 and 2016-2017 school years.

Schools may not use the results from the tests given during the student safe harbor school years (2014-2015, 2015-2016 and 2016-2017) in any decision to grant credit to a student. The law also ensures that a student's score report from these tests is only released to the school district, the student and the student's family. Finally, schools may not use the results from the tests given during the student safe harbor school years as a factor to promote or deny a student's promotion to a higher grade level.

The only exception to this safe harbor provision is the Third Grade Reading Guarantee. Students still will be required to reach the promotion score on the state's reading test or an alternative test if they are not exempt from retention. For more information on the Third Grade Reading Guarantee, please visit the department's [website](#). Address questions to [ThirdGradeGuarantee@education.ohio.gov](mailto:ThirdGradeGuarantee@education.ohio.gov).

Safe harbor does not apply to graduation requirements. The Ohio Graduation Tests are not part of the testing transition and students in the graduating classes of 2017 and earlier must pass these tests to graduate. The graduating classes of 2018 and after are taking end-of-course tests to earn graduation points. A student's performance on these tests will impact a student's graduation. However, safe harbor allows any student to retake any end-of-course tests at a future date. Furthermore, students have other opportunities to earn graduation points on other tests and have access to two other graduation options in order to earn a high school diploma. For more information on [graduation requirements](#), please visit the department's website. Address questions to [brian.roget@education.ohio.gov](mailto:brian.roget@education.ohio.gov).

State law requires a student using a voucher to attend a nonpublic school to take state tests in order to continue using the voucher. However, there is a one-year safe harbor for students that means students will be able to renew their scholarships even if they do not take the state test in the 2014-2015 school year. This provision under safe harbor was not extended beyond 2014-2015. Students still must meet all remaining renewal eligibility criteria to receive awards for the 2015-2016 school year. Students previously required to pass the Ohio Graduation Tests who attend nonpublic high schools still must pass those tests to graduate; however, participation in the test will not be considered a requirement for the renewal of scholarships. Additionally, school districts will not lose funding for students who do not take the state tests in the 2014-2015 school year.