

2016 IEERB Updates

IEERB Case Updates



- **2015 Impasse Cases**

Declared at Impasse: 42

Mediation: 12

Fact-Finding: 1

Stayed: 3-2

- **Pending Court Cases (Jay County)**

Legislative Overview



- IEERB Bill – HB1330
 - Increases Board members to 5
 - Creates executive director position separate from board
- Teacher Compensation/Related Bills

2016 BARGAINING/IMPASSE TIMELINE

6/1	Exclusive Representative President Name and Contact Survey Opens
6/22	Exclusive Representative President Name and Contact Survey Due
Pre 8/1	Informal Negotiations May Be Held DOE Estimate of General Fund Revenue
8/1	Formal Collective Bargaining Period Begins Pre-Impasse Mediation May Begin Bargaining Status Form I Open Collective Bargaining Report Open
9/16	Fall ADM count
9/30	Bargaining Status Form I Due Pre-Impasse Mediation Ends General Fund Operating Referendum Certification Obtained
10/3	<u>IMPASSE PERIOD BEGINS – ALL CBAs DUE</u>
~10/17	DOE Certification of Bargaining Revenue
12/1	Collective Bargaining Report Due
12/31	Impasse Period Ends

These dates will not be altered for individual school calendars. For more information, visit www.in.gov/ieerb

Bargaining/Impasse Steps

- Informal Bargaining
- Formal Bargaining & Pre-Impasse Mediation
- Impasse Steps:
 - Declaration of Impasse
 - Appointment of Mediator (w/in 15 days of declaration)
 - Mediation (1-3 sessions; up to 30 days; ends in settlement or LBOs)
 - Appointment of Factfinder (w/in 15 days of end of mediation)
 - Factfinding (up to 30 days)
 - Appeal to IEERB (must appeal w/in 30 days; Bd. has 60 days to rule)

Pre-Impasse Mediation

- Parties mutually request mediation August 1 – September 30
- Mediator appointed by IEERB
- Costs split by the parties
- Different impasse mediator unless mutually requested by the parties
- Ends September 30; no required number of sessions

What IEERB expects from the parties during impasse

- Bargaining Status Form II
- Communication regarding status
- Compliance with timelines/process

What if the parties settle?

- Parties can settle starting August 1 and prior to a fact finder appointment by submitting a **ratified** CBA to IEERB.
 - Note: If impasse already declared, the parties will receive an End of Impasse Notice.
- Parties can settle after a fact finder appointment by submitting a joint LBO to the fact finder

March Madness IEERB-style a.k.a. Compliance





Compliance: Scope of Review

- Based on the CBA as provided to IEERB by the parties.
- Does not include:
 - An evaluation of deficit financing.
 - An evaluation of whether the health insurance plan is compliant with IC 20-26-17 (HEA 1260-2011).
 - An exhaustive review of whether any provision of the CBA conflicts with any state or federal right, benefit, or law.
- **IEERB advises and strongly encourages the parties to review all Board guidance and directives on bargaining and compliance issued prior to the 2016 bargaining season.**

Compliance: Scope of Review

- For CBAs bargained in 2015 only: The compliance review will not include an evaluation of provisions at issue in Jay Classroom Teachers Association v. Jay School Corporation and Indiana Education Employment Relations Board, Case No. 49A05-1412-PL-0586, handed down by the Court of Appeals after the 2015 collective bargaining season. Specifically,
 - provisions relating to flexibility in setting new teacher salaries will not be found non-compliant; and
 - payments outside the compensation plan or ECA/CCA schedules will be assumed to be payments for ancillary duties, and therefore will not be found non-compliant. Payments will be found noncompliant if for regular teaching duties or assignments.
- The Board will be reviewing and updating this rubric prior to July 1, 2016. All parties and stakeholders are strongly encouraged to review the updated rubric prior to formally bargaining in 2016.

Compliance: Report

I. FINDINGS OF NONCOMPLIANCE

Item	Description of non-compliance

Compliance: Report

II. GENERAL COMMENTS

- The Compliance Officer may offer comments about the CBA.
- These are general observations about various items in the CBA and do not constitute findings of non-compliance.

Item	Comment

Compliance: Report

III. RECOMMENDED ORDER

- **The Report does not change the terms and conditions of the current CBA.**
- No further action is required unless one or both parties appeal this Report.
- Any questions about this Report, the implications of this Report, or the appeal process should be directed to IEERB's General Counsel. The parties should not contact the Compliance Officer.
- Four possible findings

Compliance: Findings & Penalties

1. Compliant

Hooray!



Compliance: Findings & Penalties

2. Substantially Compliant

3. Not Compliant

Penalty:

- Cease and desist from ratifying **future** CBAs containing the identified noncompliance.
- This means any future CBA or MOU:
 - cannot include any of the term(s) determined to be noncompliant; and/or
 - must include required terms that were impermissibly omitted.

Compliance: Findings & Penalties

4. Substantially Not Compliant



Penalties:

- Cease & Desist
- Prior Approval: No CBA or MOU may be ratified without IEERB approval
- **Failure to obtain prior written approval from IEERB will render the subsequent CBA or MOU null and void.**

Compliance: Findings & Penalties

More on Prior Approval:

- IEERB will appoint a compliance officer prior to August 1.
- The school employer shall submit any T.A. to the compliance officer.
- The compliance officer shall approve or deny.
- Parties have four business days to appeal.
- Upon the timely filing of an appeal, the Board shall issue a final notice of approval or denial no later than 30 days after receipt of the appeal.
- If the Board denies prior approval, the parties will proceed through impasse proceedings pursuant to IC 20-29-6-13 unless impasse proceedings are stayed.
- Additional information on this process will be provided to parties with prior approval no later than August 1.

Compliance: Process

- 15 days to file written appeal
- Board final order 30 days after the later of:
 - Receipt of appeal
 - Filing of briefs
 - Oral argument
- IEERB may send findings to other state agencies
- MOUs must be sent to IEERB; included in report or addendum

Compliance: MOUs

- Any MOU must reviewed for compliance
- Failure to submit an MOU for review results in automatic finding of prior approval
- MOU reviewed for
 - (1) substantive compliance
 - (2) procedural compliance

Compliance: MOUs

- MOUs ratified outside the bargaining timeline are not generally permitted.
- An exception may be granted for:
 - Newly discovered information or an unanticipated event that was not known or available at the time the parties ratified the original CBA.
 - Nonrule policy guidance issued by the board addressing unanticipated circumstances impacting multiple bargaining parties and allowing parties to bargain and ratify a limited MOU outside of the bargaining timelines.

Compliance: MOUs

- School must submit MOU and written explanation for MOU within 2 days of ratification
- Compliance officer appointed (generally same one)
- The compliance officer shall determine if an exception to a finding of noncompliance is warranted and issue a report addendum
- The addendum may be appealed pursuant to normal report appeal process.

Save the Date!

IEERB Annual Conference

June 14, 2016

9 a.m. – 12 p.m.

Auditorium, Indiana Government Center South

Free!

Registration open. Email klandeck@ieerb.in.gov.