



2020 CBA Compliance

Jake May

IEERB Director of Compliance



2019-20 One-Year Compliance Reports

- **187 CRRs Issued**
 - 89 Compliant
 - 95 Not Compliant, Cease & Desist Only
 - 3 Not Compliant, Prior Approval Issued
- **Top issues of noncompliance:**
 - Bargaining Unit Description
 - Non-Bargainable Subjects
 - Increases not in Compensation Plan
 - Increases not Attributed to a Factor
 - 50% Cap
 - Redistribution Plan



Bargaining Unit Description

- **Must match most recent IEERB Order in effect on date of CBA ratification**
- **Unit changes, once certified by IEERB in an Order, become effective upon next ratification**
- **Ratifying a CBA with an amended unit description after the notice period but before the order is issued results in an FNC**
- **IEERB bargaining unit orders available on IEERB Search**
 - <https://ieerbsearch.ieerb.in.gov>
 - Guest login credentials on the IEERB Search homepage.



Bargaining Unit Description

- **Tips:**

- **CBA recognition clause should match IEERB Order exactly**
- **Don't wait until you're about to ratify your CBA to make unit changes**
 - **Contact IEERB for timing suggestions if you're cutting it close**
- **Retrieve your Order from IEERB Search and review it thoroughly**
 - **You're responsible for notifying IEERB of any mistakes in the Order**
- **Agreed changes to unit description not affecting unit composition are quick and easy, so get them done (See 560 IAC 2-2.1-1(c))**
 - **Example: The formal title of an excluded position changes (e.g. "Director of Information Technology" title changed to "Director of Informatics")**



Nonbargainable Subjects

- **What you can bargain:**
 - Salary, wages, and fringe benefits
 - Grievance procedure
- **What you can't bargain:**
 - Assignments
 - Hours, days, calendar
 - Composition of school or district wide committees
 - Working conditions
 - Supplemental Payments and TAGs
 - Anything that's not a salary, wage, or benefit
 - Any terms for employees not in the bargaining unit
 - *But don't forget the obligation to discuss the subjects in IC 20-29-6-7*



NBS: Terms for non-unit-members

- **Union represents employees in the bargaining unit only**
- **Terminology in BU description given plain meaning unless parties include alternate definition in unit description**
 - **Parties have flexibility to define term locally, but MUST amend unit to include definitions that deviate from plain meaning**
- **Example: BU = all “full-time” certificated employees**
 - **Plain meaning of “full-time” is teacher employed 1.0 FTE**
 - **Parties wish 0.5 FTE or greater teachers to be considered full-time**
 - **Solution: Amend BU to add “full-time defined as 0.5 FTE or greater”**



NBS: Terms for non-unit-members

- **Tips:**

- **Clarify ambiguities in unit description**
 - Example: use “boys varsity high school basketball coach” instead of “basketball coach” to exclude the position from the BU
 - Note: Agreed change that does not affect unit composition is quick and easy (See 560 IAC 2-2.1-1(c))
- **Avoid adding wages for excluded ECA positions or lay staff to your ECA schedule**
 - If you DO add them there, be sure to clearly indicate that the wage for that position was not bargained and was included for informational purposes only
- **If BU limited to “full-time” don’t bargain for teachers employed part-time, less than a full day, less than a full load, or less than full-time**



Undescribed transition to new salary schedule

- **Example:** Salary schedule includes \$1000 across-the-board increase from last year, but Comp Plan only describes increase amounts from advancing rows and columns
- **Result:**
 - FNC for increase not in compensation plan
 - FNC for increase not attributed to statutory factor
 - Amount of transition increase included in the 50% calculation due to lack of factor attribution
- **Solution:** “Teachers that satisfy the evaluation rating factor transition to the 2020-21 SS in the same row and receive a \$500 increase”



50% Cap on Ed & Exp

- **Calculation based on percentage of total possible increase**
- **Increases Subject to the Cap:**
 - Years of experience factor
 - Content area degrees and hours factor
 - Academic needs and instructional leadership factors, if defined, distributed, or differentiated according to teachers' education and/or experience
- **Increases not Subject to the Cap:**
 - Increases to reduce-the-gap
 - Teacher retention catch-up increases
 - Evaluation factor
 - Academic Needs and Instructional Leadership factors w/o ed/exp component



Redistribution Plan (RDP)

- **All compensation plans (CPs) must include RDP, unless it's clear that one is not needed**
- **Simply saying that a specified amount of money will be fully distributed, when that is not demonstrated by the CP, is insufficient and will result in an FNC**
- **Examples of CPs that need a redistribution plan:**
 - **Increases based on advancement on a salary schedule**
 - **An increase is described as a set amount per teacher, point, or factor (even if CP uses pool/points, for example, to distribute other factor increases)**
- **Required components of RDP:**
 - **To all teachers rated effective or highly effective**
 - **In current contract year**
 - **METHOD: as a stipend or base increase**



MOUs

- Amend or supplement the CBA
- Ratification outside bargaining period **ONLY** if:
 - New info / unanticipated event not known at CBA ratification; or
 - IEERB issued nonrule policy guidance re: unanticipated circumstances impacting multiple parties
- Include written explanation of need for MOU
- Send to ratifiedcontracts@ieerb.in.gov within 10 business days of ratification
- Attach ratified MOU to current CBA, reupload to Gateway, and publish on school corp. website
- TIP: Ask IEERB to “pre-approve” a proposed MOU by emailing draft and written explanation to compliance@ieerb.in.gov
 - Remember to copy other party on your email request



Final Thoughts

- **Review your last compliance report carefully and don't skip the footnotes or general comments**
- **When bargaining: Is it salary, wages, or fringe benefits? If no, don't bargain it**
- **Including policy for reference purposes? Be sure to say that it wasn't bargained and was included for informational purposes only**
- **Beware of old language and remove if possible**
- **Check dates and internal citations for accuracy**
- **Keep it simple**