

Guide to Exclusive Representative Affidavit & Teacher Letter

In 2018, the General Assembly passed SEA 407 (codified at Indiana Code § 20-29-5), which requires IEERB to send letters to school employees in corporations where less than a majority of school employees are members of the exclusive representative/union. This Guide provides information on this process. This Guide does not constitute legal advice, and does not bind IEERB or its Board in any way. For more information, visit www.in.gov/ieerb. If you have any questions, please email Questions@ieerb.in.gov.

I. Definitions

1. **Bargaining Unit Member:** School employees in the bargaining unit certified by IEERB, the definition of which should be included in the parties' CBA. Bargaining unit members are represented by the exclusive representative regardless whether they are members of the exclusive representative.
2. **Exclusive Representative:** The school employee organization that has been voluntarily recognized by the school employer or certified by IEERB after an election.
3. **Member of Exclusive Representative:** A school employee who belongs to/has joined the exclusive representative. School employees are not required to be members of the exclusive representative.

II. Process

1. Exclusive Representative Submits Affidavit to School by September 15

- Sample Affidavit is attached
- Affidavit must contain:
 - Name of Exclusive Representative
 - Name of School Corporation
 - Certification of number of exclusive representative members corporation-wide
 - Certification of the number of exclusive representative members by school
 - Signature of President of Exclusive Representative
 - Contact Information of Exclusive Representative
- [recommended] Include in submission to school the number bargaining unit members corporation-wide (does not have to be part of affidavit)
- **DO NOT SEND ANY INFORMATION THAT WOULD IDENTIFY A PARTICULAR SCHOOL EMPLOYEE, INCLUDING BUT NOT LIMITED TO NAMES** (with the exception of the president, who must provide name and sign the affidavit)

2. School submits membership information into Gateway by October 1

- School will upload affidavit and complete online form on Gateway
- School will be required to provide number of bargaining unit members
- Gateway questions attached

3. IEERB Review

- IEERB will review information and contact parties regarding any discrepancies
- If IEERB determines that less than a majority of bargaining unit members are members of the exclusive representative, IEERB will notify parties.
- School will be required to send IEERB email addresses of all bargaining unit members.

4. Issuance of IEERB Letter

- IEERB will issue letter by email to all teachers through Gateway
- Draft Letter attached

III. FAQs

1. How do I determine the number of bargaining unit members?
 - Your CBA has the bargaining unit positions listed. That information should be checked with school records on certificated employees. For example, if your unit description is all certificated employees except the superintendent, assistant superintendent and principals, then take a list of certificated employees, count everyone and subtract the exceptions.
2. What date should I use to count bargaining unit members?
 - September 15
3. Does the exclusive representative have to list the number of bargaining unit members?
 - No. However, if no number is listed, the exclusive representative will have waived any objections to the school corporation's number.
4. What if the parties do not agree on the number of bargaining unit members?
 - IEERB will take no action unless the disagreement impacts whether the majority threshold has been reached. If it does, IEERB will conduct an investigation and determine whether the threshold has been reached.
5. What if the membership is 50%?
 - This does not constitute a majority; the teacher letter will be sent.
6. Does the exclusive representative have to use the draft affidavit?
 - No. However, the affidavit must include the information listed under step 1 of Process, above.
7. Who will receive the letter?
 - All schools employees in the unit.
8. Will the exclusive representative send names?

- No, neither the exclusive representative nor the school employer should send each other or IEERB any information that could identify a particular school employee as a member (or non-member) of the exclusive representative. The exception is for the president of the exclusive representative, who will need to provide contact information.
9. Is this a one-time process?
- No, the statute requires that this process be repeated every year. Therefore, you could have some years where a letter is sent and other years where a letter is not sent.

IV. Tips, Reminders, & Additional Information

We strongly recommend that the parties meet in early September to discuss the number of bargaining unit members.

We believe this process will result in a higher than normal level of inquiries to IEERB, exclusive representatives, school employers, and other stakeholders. IEERB reminds all parties to be careful not to engage in an unfair practice.

This process will eliminate the need for the annual exclusive representative survey; therefore, the parties should ensure that the contact information provided is accurate as it will be used for the purposes of sending information relating to collective bargaining.

V. Appendix

1. Sample Affidavit
2. Gateway Questions
3. Draft Teacher Letter