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Guide to Exclusive Representative Affidavit & Teacher Letter

The Indiana Education Employment Relations Board is a neutral agency that oversees relations between public school teachers and the schools they serve.

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. IEERB staff has compiled the following information on the exclusive representative affidavit and teacher letter for **guidance only. IEERB cannot provide legal advice; nor does this guidance bind IEERB in any way.** This guidance is not intended to take the place of careful review of IC 20-29-5 and 560 IAC 2-2.1, or as a substitute for legal advice. Questions about the exclusive representative affidavit or the teacher letter may be sent to Questions@ieerb.in.gov.

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I. Definitions

A. 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 of whether they are members of the exclusive representative.

B. Exclusive Representative

The school employee organization that has been voluntarily recognized by the school employer or certified by IEERB after an election.

C. 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

A. Exclusive Representative Submits Affidavit to School by September 15, 2023

1. The affidavit must contain:
 - a. Name of Exclusive Representative
 - b. Name of School Corporation
 - c. Certification of number of exclusive representative members corporation-wide
 - d. Certification of the number of exclusive representative members by school
 - e. Signature of President of Exclusive Representative
 - f. Contact Information of Exclusive Representative
2. It is recommended that the affidavit also contain
 - a. The number of bargaining unit members corporation wide.
3. Do not include:
 - a. Any information that would identify a particular school employee.
 - b. Names of any school employee, except for the president of the exclusive representative, who must sign the affidavit.
4. A sample affidavit is [below](#).

B. School Employer submits membership information into Gateway by October 1

1. School Employer will upload affidavit and complete online form on Gateway.
2. School Employer will be required to provide number of bargaining unit members.
3. The Gateway questions are [below](#).

C. IEERB Review

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

D. Issuance of IEERB Letter

1. IEERB will issue letter by email to all teachers through Gateway
2. A draft letter is [below](#).

III. FAQs

A. 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.

B. What date should I use to count bargaining unit members?

September 15

C. 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.

D. 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.

E. What if the membership is 50%?

This does not constitute a majority; the teacher letter will be sent.

F. Does the exclusive representative have to use the draft affidavit?

No. However, the affidavit must include the information listed above.

G. Who will receive the letter?

All school employees in the unit.

H. 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.

I. 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 and Additional Information

IEERB strongly recommends that the parties meet in early September to discuss the number of bargaining unit members. IEERB believes 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. Sample Affidavit

School Employee Exclusive Representative Affidavit

Comes now the President of the [Name of Exclusive Representative], the exclusive representative of the bargaining unit of school employees of [Name of School Employer], being first duly sworn upon his or her oath, and testifies as follows:

1. The number of members of the exclusive representative (corporation-wide) as of September 15, 2023, is: [# of members]
2. Select one of the two options:
 - Number of members of the exclusive representative as of September 15, 2023, by building (*add more rows if necessary*):

Name of Building	Number of Members

- Attached is a signed, separate document to this affidavit that lists the number of members of the exclusive representative by building as of September 15, 2023.

(Optional: recommended if known) To the best of my knowledge, the number of bargaining unit members (corporation-wide) as of September 15, 2023, is [# in bargaining unit].

I affirm under penalties for perjury that the foregoing representations are true and accurate to the best of my knowledge and belief.

Exclusive Representative President Name

Exclusive Representative Email Address

Exclusive Representative President
Signature

Date Signed

VI. Gateway Questions

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Each public school corporation is required to report the number of members of the exclusive representative organization and the total number of employees covered by the teachers collective bargaining agreement (CBA).

How many employees covered by the CBA are **members** of the exclusive representative organization (union)?

How many employees does the exclusive representative organization claim are covered by the CBA?

How many employees does the corporation claim are covered by the CBA?

Exclusive Representative Email

Exclusive Representative Name

Upload the exclusive representative organization membership verification affidavit PDF file:

VII. Draft Teacher Letter

Dear School Employee:

You are receiving this letter pursuant to statute because less than a majority of represented school employees in your school corporation are members of the exclusive representative/union. See Ind. Code § 20-29-5-8.

The following is an overview of your right to representation in collective bargaining and the ability to change your exclusive representative:

- **Right to representation:** You have the right to form, join, or assist school employee organizations, and to participate in collective bargaining with school employers through an exclusive representative. The exclusive representative represents all bargaining unit members. You must receive notice of all changes to the unit. You have the right to challenge any change to the bargaining unit that impacts you by filing a complaint. A draft complaint is available on IEERB's website.
- **Right to change your representative or have no representative:** 20% of bargaining unit members may file a petition asserting that the exclusive representative is no longer the representative of the majority of school employees in the unit. A school employee organization may file a petition asserting that 20% of the employees in the bargaining unit wish to be represented by the school employee organization, or that the designated exclusive representative is no longer the representative of the majority of school employees in the unit. A petition for representation may be filed January 15 through February 15 or July 1 through July 30. A draft petition is available on IEERB's website.

This letter is for informational purposes only. It does **not** change the status of your exclusive representative.

Additional information about representation can be found on IEERB's website at <http://www.in.gov/ieerb/2410.htm>. If you have questions about the information presented in this letter or about representation, please contact IEERB at Questions@ieerb.in.gov.

Sincerely,

Dr. Stacey Hughes, Executive Director
Indiana Education Employment Relations Board