

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

IEERB PUBLIC HEARING

TAKEN ON  
AUGUST 16, 2012

AT  
INDIANA GOVERNMENT CENTER NORTH  
IEERB BOARDROOM N1045  
100 NORTH SENATE AVENUE  
INDIANAPOLIS, INDIANA

COMMENCING AT  
9:30 A.M.

STENOGRAPHIC RECORD  
BY  
JODIE FRANZEN, RPR, CSR  
NOTARY PUBLIC

FRANZEN & ROBERTS REPORTING, INC.  
2990 MARKET TOWER  
10 WEST MARKET STREET  
INDIANAPOLIS, INDIANA 46204  
(317) 636-3808  
www.frreporting.com

1 MS. CUDAHY: Okay. I know that  
2 we're going to have a speaker, but I'm  
3 going to go ahead and start, and then  
4 we'll wait for Betty and whoever else  
5 wants to speak.

6 Good morning. August 16, 2012.  
7 We're here for the IEERB rules hearing on  
8 LSA 12-112 to amend 560 IAC 2. My name  
9 is Sarah Cudahy. I'm general counsel of  
10 IEERB. With me to my left is the new  
11 IEERB chairman Patrick Mapes and our  
12 IEERB consultant Marlin Creasy.

13 A little bit about of background  
14 and housecleaning. The prior hearing on  
15 these rules was held June 22nd, 2012.  
16 There were no public comments at that  
17 time. There is a board meeting  
18 August 20th -- that's Monday -- at 9 a.m.  
19 to adopt the proposed rules. For those  
20 of you that cannot attend that meeting,  
21 that transcript will be available online  
22 after the board meeting.

23 Some housecleaning, we're going to  
24 let everyone speak as there probably  
25 won't be very many people. You can also

1 submit written comments online through  
2 today or if you have them with you, you  
3 can submit it. That will become part of  
4 the public record. You can submit them  
5 via email to my email address:  
6 scudahy@ieerb.in.gov. And again, that's  
7 through today.

8 As soon as we have all of those  
9 written comments and any comments from  
10 today, I'll make a summary of the public  
11 comments, and that will also be available  
12 to anybody that wants it. And all of  
13 those comments, obviously, will be  
14 reviewed before the board adopts the  
15 rule.

16 So without further delay, Susan,  
17 do you have some comments?

18 MS. TRAYNOR-CHASTAIN: Uh-huh.

19 MS. CUDAHY: Come on up.

20 MS. TRAYNOR-CHASTAIN: I assume I  
21 need to state my name.

22 MS. CUDDAHY: That would be great.

23 MS. TRAYNOR-CHASTAIN: My name is  
24 Susan Traynor-Chastain. I'm an attorney  
25 with Bose McKinney & Evans, and I have

1 just really more a couple of questions  
2 rather than comments. And I understand  
3 you won't answer them today, but I just  
4 wanted to raise them as you review the  
5 rules. So I appreciate the opportunity  
6 to speak to you.

7 My first question concerns the  
8 proposed changes -- actually it's a new  
9 section. It's on the last best offer.  
10 It's 560 IAC 2-4-3.1. One of the things  
11 it mentions in that section is that there  
12 is going to be a form for the last best  
13 offer and I checked your website and I  
14 saw the questions and the content, but I  
15 didn't see the form. So my question is  
16 will a form be developed that we should  
17 be using. And so that's one of my  
18 questions.

19 And then another question on the  
20 last best offer, do we have to include  
21 all of the items that are all of the  
22 items that we have agreed to in our last  
23 best offer or just the items that are at  
24 impasse? So, for example, if we have  
25 things we have already agreed to and we

1           only disagree on salary, do we need to  
2           include everything we have agreed to, as  
3           well as the salary, or just the salary  
4           component in our last best offer?

5                     And then another question on last  
6           best offers, your rule Section C says  
7           that -- I'm sorry, Section E says that if  
8           it's not compliant, the last best offer  
9           will be sent back to the party, and  
10          they'll have 24 hours to fix it. My  
11          question is what happens if you send it  
12          back and they make corrections and send  
13          it back to you and it's still not  
14          compliant, will they be given another  
15          opportunity, or is it simply rejected,  
16          and the other last best offer is adopted?  
17          The way I read your rules it looks like  
18          the other last best offer would be  
19          accepted. So I'm just curious as to what  
20          might happen in that situation.

21                    And my other question has to do  
22          with factfinding. And I'm looking at  
23          your proposed changes to 560 IAC  
24          2-4-4(b), and that says that if the  
25          parties reach a settlement during the

1 factfinding process they are to each  
2 submit an identical last best offer to  
3 the factfinder. And in that circumstance  
4 my question is what will the factfinder  
5 do with it? Will he simply approve that  
6 offer -- he or she -- or will he have the  
7 authority to modify or amend, or will it  
8 just simply be a case of approving the  
9 offer and sending it back to the parties?  
10 So I was just curious as to what would  
11 happen in that situation.

12 And those are all of the questions  
13 that I have, so thank you for taking the  
14 time to hear me out.

15 MS. CUDAHY: Thank you, Susan.

16 Does anybody else want to speak?

17 (No response.)

18 MS. CUDAHY: Okay. So we'll take  
19 a brief recess and we'll wait for Betty  
20 Quinn and then we'll go back on the  
21 record shortly.

22 (There was a brief recess  
23 off the record.)

24 MS. CUDAHY: Okay. So we are back  
25 on the record. And this is, again, for

1 the public hearing for IEERB for LSA  
2 12-112 to amend 560 IAC 2.

3 Betty, will you introduce yourself  
4 for us.

5 MS. QUINN: I would be glad to.  
6 My name is Betty Quinn. I'm a staff  
7 representative with the Indiana  
8 Federation of Teachers. And I thank you  
9 all for being patient with me this  
10 morning. Parking is certainly at a  
11 premium here in your fine city.

12 I will start out by saying it is  
13 my understanding from reading through the  
14 rules that at least the first part you're  
15 saying you're going to set up one  
16 procedure that will be used from now on  
17 for the representation elections. With  
18 that in mind, my first comments/questions  
19 sort of deal with that procedure. If we  
20 look at 560 IAC 2-2-9, Section F (10) it  
21 lists certain things including school  
22 mailboxes, bulletin boards, and employee  
23 lounges which will be available to any  
24 and all employee organizations that are  
25 taking part in the election. My question

1 comes does this include email?

2 Many school corporations allow the  
3 exclusive representative use of the  
4 school email. If the exclusive  
5 representative is included in this  
6 election, that would be a tremendous edge  
7 for them, shall we say a benefit, if  
8 they're allowed to use the email and the  
9 other party/parties are not. So my  
10 suggestion is either no one uses it for  
11 this particular purpose or everyone does.

12 The next thing would be  
13 Section 560 IAC 2-2-9, Section G. As I  
14 read it, this eliminates the ability for  
15 parties taking part in the election to  
16 request a copy of vote tallies after a  
17 mail-in representation election. This  
18 was in there in the previous version. I  
19 am a little curious as to why this is  
20 being eliminated. My understanding is  
21 what this would do would give you a  
22 written copy of what went on of the vote  
23 tallies. And whereas I personally like  
24 to believe that when I speak everybody  
25 takes my word as being golden, I'm pretty

1           sure that's not true, that people prefer  
2           to see a hard copy of the whole thing.  
3           So I would say that perhaps even though  
4           you're going to hopefully have people  
5           there who are from both parties who will  
6           be, shall we say, proctoring or watching  
7           the election, it would be a good idea to  
8           have a hard copy later of the results.

9           Okay. Now, going on to the other  
10          part of the rule, as I saw it, which  
11          would be the impasse procedure. Looking  
12          at 560 IAC 2-4-1, the rule says that  
13          impasse is declared 60 days following the  
14          beginning of collective bargaining  
15          between the parties. The question has  
16          come to me -- and I'm sure has come  
17          elsewhere -- does 60 days mean from  
18          August 1st, the day that formal  
19          bargaining can actually begin, or does  
20          the 60 days run from when the parties  
21          actually start their bargaining, which  
22          may be after August 1st?

23          Okay. And then one last thing.  
24          In reading through the material on the  
25          impasse procedures, I didn't find any

1 reference to the information that the  
2 school employer is to give to the union,  
3 exclusive representatives of the  
4 teachers, during bargaining before they  
5 prepare for either mediation or their  
6 last best offer. Possibly it's listed  
7 someplace else and I just didn't see it.  
8 But my concern is there are strict  
9 deadlines on everything else in the law.  
10 If there is no deadline that says once  
11 the request is made by the union there  
12 are so many days for the employer to turn  
13 it over, we could be running into a  
14 situation where the information came so  
15 late that the union would not have time  
16 to properly prepare their last best  
17 offer. So I'm not requesting that there  
18 be anything in the rules that say  
19 specifically what can be requested,  
20 although I know that IEERB has put that  
21 out, I would like to see something that  
22 says that the request must be made at a  
23 certain time, and the information must be  
24 turned over at a certain time.

25 And again, thank you for waiting

1           for me. Thank you for giving me the  
2           opportunity to speak.

3                   MS. CUDAHY: Thank you, Betty.

4                   Is there anybody else that would  
5           like to give public comment at this time?

6                                   (No response.)

7                   MS. CUDAHY: And I will remind  
8           everyone here and anybody that you talk  
9           to that wants to know we will be taking  
10          written comment through the end of the  
11          day today. You can drop it off at IEERB  
12          or you can fax it to us or you can email  
13          it to my email address. And we will be  
14          having the board meeting on Monday at  
15          9 a.m. to adopt the final rules.

16                   With that in mind, thank you all  
17          for coming. And that concludes the  
18          public hearing.

19

20

21

22

23

24

25

1 STATE OF INDIANA )

)SS:

2 COUNTY OF HAMILTON )

3

4 I, Jodie Franzen, RPR, CSR, and Notary  
5 Public in and for said county and state, do  
6 hereby certify that said public hearing was  
7 taken before me at the time and place herein set  
8 forth and was taken down by me in shorthand and  
9 thereafter transcribed into typewriting under my  
10 direction and supervision.

11

12 I further certify that I am neither  
13 counsel for nor related to any party to said  
14 action, nor in any way interested in the outcome  
15 thereof.

16

17 IN WITNESS WHEREOF, I have subscribed my  
18 name and affixed my seal this 17th day of  
19 August, 2012.

20

21 My Commission Expires:  
June 12, 2016

22

23

\_\_\_\_\_  
JODIE FRANZEN, RPR

24

CSR #01-R-3011

25