
INDIANA EDUCATION EMPLOYMENT RELATIONS BOARD**Nonrule Policy Document No. 2016-2:
MOU Exception for HMSES**

In general the parties may not formally bargain outside the formal bargaining period. See [IC 20-29-6-12](#). The Indiana Education Employment Relations Board (Board) created two exceptions, one of which is for nonrule policy documents (NPD). An NPD may be issued for "unanticipated circumstances impacting multiple bargaining parties and allowing parties to bargain and ratify a limited MOU outside of the bargaining timelines." [560 IAC 2-8-4\(d\)\(2\)](#).

On April 21, 2016, the Board received its first request for an NPD exception. Hancock Madison Shelby Educational Services (HMSES) is a special education interlocal (independent entity that provides special education services to its member schools, who also comprise the board of directors). The member school corporations (member schools) are Eastern Hancock, Mt. Vernon, Community School Corporation of Hancock County, Northwestern Consolidated School District of Shelby County, and South Madison Community School Corporation. HMSES decided in March of 2016 to dissolve as of July 1, 2017. Although HMSES will not dissolve until July 1, 2017, HMSES voted to make structural changes for 2016-2017 in preparation for the dissolution, including shifting several HMSES positions to member district employment. HMSES and its member schools request an exception for the general prohibition against MOUs for MOUs required because of the structural change and pending dissolution that they claim must be made outside the formal bargaining period.

On June 13, 2016, the Board voted to adopt an NPD, allowing HMSES and its member schools to bargain MOUs outside the formal bargaining timeframe, with the following restrictions:

- NPD covers only those issues that cannot otherwise be bargained during the bargaining period.
- All MOUs will need to include short statement as to why it is within the scope of the NPD.
- Failure to include such a statement, or to show why the MOU is within the NPD's scope, will result in a finding of noncompliance.

Additionally, HMSES and its member schools are reminded that all salary, wages, and related fringe benefits of bargaining unit members must be bargained with the appropriate exclusive representative (unless prohibited).

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