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IEERB 2023 CBA COMPLIANCE RUBRIC

Introduction

IEERB is responsible for conducting compliance reviews of each teacher collective bargaining agreement (CBA) and determining the penalty for any noncompliance. Pursuant to 560 IAC 2-8-1, the Board is required to develop a compliance rubric that must be reviewed and updated annually.

Using the Rubric

The Rubric is designed to assist parties in developing a compliant CBA. Statutory changes have been incorporated into the 2023 Rubric, and certain revisions have been made for clarity. The Rubric also includes explanations, tips, and examples of compliant and noncompliant provisions, as well as sections on MOUs and penalties for noncompliance. Substantive changes or additions of note are in **red text**.

Each section of the Rubric explains a required or permitted item, subject, or provision. Because compensation plans are frequently the basis for findings of noncompliance, the Board encourages the parties to pay particular attention to the *Compensation Plan* section that begins on page 6. This section provides numerous examples and tips for ensuring a compliant compensation plan. The section on *Impermissible Items, Provisions, and Subjects* provides examples of noncompliance from previous Compliance Reports and Recommendations to assist parties in avoiding common issues of noncompliance.

The Board strongly encourages the parties to utilize the Rubric, as well as their most recent Compliance Report and Recommendation, to ensure that their 2023 CBA is compliant. Unfortunately, time and staffing constraints prevent IEERB staff from being able to provide an informal review of an entire tentative agreement or proposed CBA (except for those CBAs that are subject to the prior approval penalty from the previous year).

There are additional resources on IEERB's website (www.in.gov/ieerb), including all applicable statutes and rules, as well as the IEERB Guide to CBA Compliance and a Compliance Checklist. Parties may wish to have a third party read and review their tentative agreement or proposed CBA, prior to ratification, to ensure that the terms of the CBA and compensation plan are clear and easy to understand **and to ensure that internal references, dates, and school years have been updated as appropriate.**

IEERB 2023 CBA COMPLIANCE RUBRIC
REQUIRED PROVISIONS

All of these items must be included in the CBA and must comply with the requirements set forth herein.

Required item	Description – Examples ¹ – Tips
Parties to the collective bargaining agreement (CBA)	<ul style="list-style-type: none"> • The names of the school employer and exclusive representative must be identified in the CBA.
Bargaining unit description is included and matches most recent IEERB order on unit composition	<ul style="list-style-type: none"> • The CBA’s bargaining unit description must match the description in the most recent order issued by IEERB in June 2016 or later. • If the parties have complied with 560 IAC 2-2.1 to successfully amend the unit, the bargaining unit description must match the most recent order in effect at the time of the CBA’s ratification. • To be effective for the current CBA, IEERB must issue an order certifying any changes to the bargaining unit prior to ratification of the CBA. For more information on the effective date of a unit change, see 560 IAC 2-2.1. • Parties may only bargain terms for members of the bargaining unit described in the IEERB order. IEERB interprets terms in the order using their plain meaning, unless otherwise defined. For example, if the parties interpret the term “full-time” to include teachers assigned to less than 1.0 FTE positions, the unit description in the order must reflect the parties’ interpretation prior to bargaining for those teachers. <p>TIP: Compare the unit description in your CBA to the IEERB order in effect on the date of ratification to ensure that the descriptions match. The most recent IEERB orders on bargaining units can be found on IEERB Search: (https://ieerbsearch.ieerb.in.gov).</p> <p>TIP: The Board encourages parties to review IEERB guidance documents and contact IEERB prior to making a change. (See the “Representation” section on IEERB’s website at https://www.in.gov/ieerb/representation/).</p>
Term of the CBA cannot extend beyond the state biennium	<ul style="list-style-type: none"> • The CBA must include specific beginning and ending dates. Although the beginning and ending dates may be included on the cover page, the Board recommends that they be included as a term within the CBA. • The ending date cannot extend beyond June 30, 2025. <p>Examples</p> <ul style="list-style-type: none"> ▪ Compliant <ul style="list-style-type: none"> ○ The term of the CBA is from September 15, 2023, to June 30, 2024. ○ This Agreement is effective from July 1, 2023, through June 30, 2025. ▪ Not Compliant <ul style="list-style-type: none"> ○ The CBA is effective for the 2023-24 and 2024-25 school years. ○ The term of the CBA is from September 15, 2023, to July 31, 2025.

¹ The examples included throughout this document are illustrative only and are intended to promote a better understanding of the particular requirement.

<p>Ratified and signed by the parties on or after September 15</p>	<ul style="list-style-type: none"> • The CBA must be ratified on or after September 15. • The “ratification date” and the “effective date” of a CBA have different meanings, even if both occur on the same day. Ratification refers to the date the CBA is voted upon (ratified) by the governing body. The effective date is the date on which the CBA terms become applicable to the parties. A 2023-24 CBA can be effective July 1, 2023, but can’t be ratified until September 15, 2023, or later. • Your CBA may include terms that are effective prior to ratification, but terms describing a period prior to the date the CBA is effective create confusion and may be noncompliant. • The CBA must include the date the CBA was ratified. Although the ratification date may be included on the cover page, the Board recommends that the ratification date be included in the CBA. • At least one agent of each party must sign the CBA. For a school employer, this must be the School Board President or Secretary, or in their absence, the Vice President. See I.C. § 20-26-4-8. Note that each contract must be approved by a majority of all members of the governing body. <p>Examples</p> <ul style="list-style-type: none"> ▪ The CBA was ratified by both parties on September 20, 2023. Signed: <u>John Smith</u> Signed: <u>Alice Jones</u> ▪ Signed: <u>John Smith</u> Date: <u>09/20/23</u> Signed: <u>Alice Jones</u> Date: <u>09/18/23</u> <p>TIP: Sign and date the CBA at the time of ratification</p> <p>TIP: If you’ve left a blank on the signature page to write-in the day of the month the CBA was ratified, don’t forget to complete it.</p>
<p>Includes attestations to the dates of the public hearing and the public meeting held and whether electronic participation was allowed at each</p>	<p>Per I.C. § 20-29-6-6(b), the CBA must include attestations signed by both parties as to: (a) the dates that the public hearing described in I.C. § 20-29-6-1(b) and the public meeting described in I.C. § 20–29–6–19 occurred, and (b) whether governing body members or members of the public were allowed to participate in the public hearing and public meeting by means of electronic communication. Parties may include additional hearings and meetings held pursuant to I.C. § 20-29-6-1(b) and I.C. § 20–29–6–19 in their attestations.</p> <p>Examples</p> <ul style="list-style-type: none"> • Compliant <ul style="list-style-type: none"> ○ The undersigned attest to the following: <ol style="list-style-type: none"> 1. A public hearing was held in compliance with I.C. § 20-29-6-1(b) on _____ (date), and electronic participation from the parties and public _____ (was/was not) permitted; and 2. A public meeting in compliance with I.C. § 20–29–6–19 was held on _____ (date), to discuss the tentative agreement and electronic participation from the governing body and public _____ (was/was not) permitted. • Not Compliant <ul style="list-style-type: none"> ○ The undersigned attest to the following:

	<p>A public hearing and a public meeting were held in compliance with statute. Electronic participation was permitted.</p> <p>Note: Pursuant to Indiana Code § 20-29-6-19(a), the date identified in the public meeting attestation must be at least 72 hours before the ratification date identified in the CBA.</p> <p>TIP: Include the attestations on your signature page for ease in obtaining signatures.</p> <p>TIP: The dates of the public hearing and the public meeting, <u>as well as the electronic participation information in the parties' attestations</u>, must match the data entered for those same fields in Gateway. Inconsistently reported attestation information may result in a finding of noncompliance.</p> <p>For additional information, see the <u>Guide to Public Hearing and Public Meetings</u>.</p>
<p>Posted on school website within fourteen (14) business days after ratification</p>	<p>Per I.C. 20-29-6-19(b), the school employer must post the agreed upon CBA on the corporation's website no later than 14 business days after the parties have reached an agreement. The posted CBA must be identical to the CBA uploaded to Gateway.</p>

PERMISSIBLE PROVISIONS

These items may be included in the CBA, and if included, the item must comply with the requirements.

Permissible item	Description – Examples – Tips
Grievance procedure	<ul style="list-style-type: none"> • If arbitration is part of the grievance procedure, the CBA must state whether it is advisory or binding arbitration. • If it is binding arbitration, the procedure must be limited to grievances about alleged violations of provisions within the scope of bargaining. It cannot include grievances for alleged violations of school board policy or other laws. • If it is advisory arbitration, grievances may include alleged violations of board policy, etc.
General definitions of CBA terms	<ul style="list-style-type: none"> • Definitions of general terms that apply throughout the CBA. <p>Examples</p> <ul style="list-style-type: none"> ▪ Days means calendar days unless otherwise specified. ▪ Teacher, when used in this contract, means each and every member of the bargaining unit as described.
Contract interpretation provisions	<p>Examples</p> <ul style="list-style-type: none"> ▪ Supremacy clause: This contract supersedes and cancels all previous agreements whether verbal or written between the school corporation and the association. ▪ Severability or Savings clause: If any article or section of this contract shall be held invalid by operation of law or by any tribunal of competent jurisdiction, the remainder of this contract shall not be affected.
Renegotiation Provision (2-year CBA only)	<p>It is not mandatory that a 2-year CBA include a provision to re-open and renegotiate certain terms. However, the parties may include a provision to renegotiate certain financial terms for the second year of a 2-year CBA.</p> <p>NOTE: In the event the parties subsequently agree NOT to renegotiate, then the parties must upload a statement of the agreement to continue the terms of the current agreement, along with the CBA, as one pdf file to Gateway Contract Upload by November 15 to avoid a declaration of impasse.</p>

REQUIRED SUBJECTS

The parties are required to bargain salary, wages, and salary and wage related fringe benefits. **All agreements on these subjects must be included in the CBA. All bargainable increases to base salary must be included in a compensation plan** that complies with Indiana Code § 20-28-9-1.5.

COMPENSATION PLAN	
Required Item	Description – Examples – Tips
<p>SALARY RANGE</p> <p>Must include salary range statement</p>	<ul style="list-style-type: none"> ▪ The compensation plan must include a clear statement of the salary range of the lowest and highest annual salaries of all returning full-time bargaining unit members. ▪ The lack of the required salary range statement will result in a finding of noncompliance, even if the salary range can be determined by reviewing other sections of the CBA (e.g., reviewing a salary schedule). ▪ The required salary range statement: <ul style="list-style-type: none"> ▪ must reflect the annual salaries being paid to returning teachers at the beginning of the school year, before the contract increases (if applicable) take effect, and ▪ cannot include any increases or ISTRF contributions for the current contract period. ▪ Parties may include other salary ranges in the compensation plan – e.g., salary ranges including ISTRF contributions – but at a minimum must include the required salary range statement. <p>Example</p> <p>At the beginning of the 2023-24 school year, the salaries of returning full-time teachers were between \$40,000 and \$70,000.</p> <p>Under the compensation plan, teachers will each get a \$1,500 salary increase.</p> <p>After the increase is awarded, full-time teachers will be making \$41,500 to \$71,500.</p> <ul style="list-style-type: none"> ▪ Required salary range statement: The salary range is \$40,000 to \$70,000 for returning full-time teachers. ▪ Optional additional salary range statements: <ul style="list-style-type: none"> ○ The salary range after increases are awarded will be from \$41,500 to \$71,500. ○ The salary range for teachers with a Bachelor’s degree is from \$40,000 to \$50,000. The range for teachers with a Master’s degree is from \$44,000 to \$70,000. ○ The salary range, including the school’s contribution to ISTRF is \$41,050 to \$72,100. <p>TIP: Avoid phrases like “will be” and “shall be” in the required salary range statement. These phrases indicate that the stated salary range “will be” as specified at some point, but may be something different currently.</p>

<p>STATEMENT IF NO SALARY INCREASE OR INCREMENT</p> <p>Must include a statement if no increases are bargained</p>	<ul style="list-style-type: none"> • If the parties bargain that there will be no base salary increase or increment for the current contract period, the compensation plan must include a clear statement to that effect. <p>TIP: If the parties bargain a 2-year CBA that includes a base salary increase for only one of the two years, the compensation plan should include a clear statement to that effect, specifying the school year for which there will be no base salary increase or increment.</p> <ul style="list-style-type: none"> • Failing to include a statement when the parties bargain no base salary increase or increment will result in a finding of noncompliance. • Simply stating that teachers will receive a stipend is insufficient. The CBA must clearly state that there is no base salary increase or increment. <p>Examples</p> <ul style="list-style-type: none"> ▪ For 2023-24, the parties have bargained that there will be no base salary increase or increment. ▪ The amount of money allocated for base salary increases under the compensation plan for 2023-24 is \$0. ▪ All funds allocated to the compensation plan for 2023-24 will be paid as stipends and no base salary increases will be awarded. ▪ For 2023-24, the parties have bargained a base salary increase, described below. For 2024-25, the parties have bargained that there will be no base salary increase or increment. <p>NOTE: If the parties bargain that there are no base salary increases, but include a compensation plan, the compliance officer may review the plan. However, no findings of noncompliance will be made regarding the suspended language.</p>
<p>MINIMUM SALARY</p>	<ul style="list-style-type: none"> • For each school year beginning after June 30, 2022, 1) the compensation plan must clearly demonstrate or include a statement that no full-time classroom teacher (instructs students at least 50% of the workday) is earning less than forty thousand dollars (\$40,000), or 2) the CBA must include a copy of the report submitted to the IDOE in compliance with Indiana Code § 20-28-9-26. • If the salary range (before contract increases) is below \$40,000, but the salary of full-time teachers will meet the \$40,000 statutory requirements after increases, the parties may include an optional salary statement to that effect, in addition to the salary range statement. <p>Example</p> <p>At the beginning of the 2023-24 school year, the salaries of returning full-time teachers were between \$38,000 and \$69,000.</p> <p>After salary increases have been awarded through the compensation plan, the salary range for full-time teachers is \$40,000 to \$71,000, in compliance with I.C. § 20-28-9-26.</p>
<p>ELIGIBILITY STATEMENT</p>	<ul style="list-style-type: none"> • The compensation plan must include a statement – a description – of the criteria for salary increase eligibility.

<p>Must include a clear statement of eligibility for a salary increase</p>	<ul style="list-style-type: none"> • Failing to include a statement of eligibility will result in a finding of noncompliance. Eligibility criteria will not be inferred from compensation plan factors or the factor definitions. • The statement of eligibility: <ul style="list-style-type: none"> ▪ must clearly state that teachers rated ineffective or improvement necessary in the prior school year are not eligible for any salary increase in the current year; ▪ should make it clear that teachers rated ineffective or improvement necessary in the prior year remain at their prior year salary, are not placed on to a new salary schedule, and do not advance on the current salary schedule; ▪ may include other eligibility criteria bargained by the parties; and ▪ must be stated separately from statements identifying and/or defining the compensation plan factors. • If the parties agree that teachers in their first two years of instructing students are exempt from the evaluation eligibility requirement, they must include a statement to that effect in the compensation plan. <ul style="list-style-type: none"> ▪ When bargained, this serves as an exception to the statutory evaluation rating eligibility requirement only, and not as a way to satisfy the evaluation rating factor, when used, unless that factor is so defined. • If exempting teachers as described above, parties should be sure that they use language that is consistent with the statutory requirement – e.g., use “teachers in their first two full school years of instructing students” not “teachers who have taught at the school for one or two years.” See Indiana Code § 20-28-9-1.5(f), (g). • The eligibility exemption for teachers in their first two full school years of instructing students is optional. The parties may bargain that all such teachers are exempt from the evaluation rating eligibility requirement, that none are exempt, or that only a portion are exempt, such as those rated improvement necessary but not those rated ineffective (see e.g., Model Compensation Plan #1 in the Model Compensation Plans document on the Compliance webpage https://www.in.gov/ieerb/compliance/.) <p>TIP: If your CBA uses the statutory citation to refer to the eligibility exemption for new teachers, note that the exemption was moved to Indiana Code § 20-28-9-1.5(g) in 2023.</p> <p>Examples</p> <ul style="list-style-type: none"> ▪ Teachers rated ineffective or improvement necessary in the prior school year are not eligible for any salary increase in the current year and remain at their prior year salary. ▪ Teachers rated ineffective or improvement necessary in the prior school year are not eligible for a salary increase and remain at their prior year salary. However, teachers in their first two full years of instructing students are exempt from the evaluation rating eligibility
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requirement and are eligible for a salary increase regardless of their evaluation rating in the prior school year.

- Only teachers rated highly effective or effective in the prior school year are eligible for a salary increase in the current year. Teachers not rated, or rated ineffective or improvement necessary, remain at their prior year salary.
- To be eligible for a salary increase in the current year, a teacher:
 - must not have been rated ineffective or improvement necessary in the prior school year, and
 - must have been employed by the corporation for at least 120 days in the prior school year.

Eligibility versus Factors

- **Eligibility** criteria are not the same thing as the factors on which a salary increase is based. Although they may be similar, eligibility criteria are threshold criteria – that is, the criteria **all** teachers must satisfy in order to be considered for a salary increase.

Because **eligibility** criteria determine which teachers enter the compensation plan and not what salary increase the teacher receives, eligibility criteria **cannot** apply to only some of the teachers. Eligibility criteria must be the same for **all teachers**.

- **Factors** are the requirements that a teacher must satisfy in order to actually receive the salary increase. It is possible for a teacher to be eligible for a salary increase, but not satisfy the factors to actually receive the increase.
- Parties may define eligibility criteria and factors the same way, but each must be clearly and separately identified and defined in the compensation plan.
- Using evaluation rating and experience as eligibility criteria does not mean that evaluation and experience must also be used as factors.

TIP: Avoid using eligibility language in the definitions of your salary increase factors (e.g., To be eligible for an increase for the experience factor, a teacher must have been employed by the corporation for at least 120 days in the prior school year). Such language can cause confusion regarding what is intended to be an eligibility criterion and what is intended to be a salary increase factor.

Examples

Eligibility Statement:

A teacher who did not receive a highly effective or effective evaluation rating in the prior school year is not eligible for a salary increase in the current year and remains at their prior year salary. A teacher must also have been employed by the corporation for at least 120 days in the prior school year.

Factors for salary increase:

Evaluation: A teacher who received an evaluation rating of highly effective or effective in the prior school year will receive a \$1,000 salary increase.

	<p>Experience: A teacher who satisfies the INPRS requirement for a year of experience in the prior school year will receive a \$500 salary increase.</p> <p>Eligibility Statement: A teacher who did not receive a highly effective or effective evaluation rating in the prior school year is not eligible for a salary increase in the current year and remains at their prior year salary. A teacher must also have been employed by the corporation for at least 120 days in the prior school year.</p> <p>Factors for salary increase: Evaluation: A teacher who received an evaluation rating of highly effective or effective in the prior school year will receive a \$1,000 salary increase.</p> <p>Possession of a content area Master’s degree: A teacher who has a content area Master’s degree (as defined by IDOE) will receive a \$500 salary increase.</p> <p>NOTE: If the parties use a factor but provide \$0 base salary increase for the factor, it will be treated as an eligibility criterion UNLESS the \$0 amount is part of a differentiated salary increase.</p>
<p>SALARY INCREASE Salary increase must be for the current contract period</p>	<ul style="list-style-type: none"> • If parties have bargained a salary increase, the compensation plan must limit the salary increase to the current contract term. • Increases effective at a date after the current contract expires, and other contract terms covering a period which extends past the termination date of the CBA should not be included in the current contract but should be included in the appropriate future contract. Extensive terms related to prior agreements should be included in the CBA only to the extent they are relevant. <p>TIP: If the salary increase is not retroactive to the beginning of the school year, the Board recommends that parties include the date that the increase becomes effective – e.g., The salary increase goes into effect on January 1, 2024.</p>
<p>SALARY INCREASE Method for determining salary increase must be described</p>	<ul style="list-style-type: none"> • All bargainable salary increases must be included in the compensation plan. • Increases described in other sections of the CBA, but not in the Compensation Plan, will result in a finding of noncompliance. • The plan must describe either the amount of the salary increase or the method by which the increase will be calculated. • Increases resulting from transitioning to a new salary schedule must be clearly described in the compensation plan. Such increases will not be inferred from the new salary schedule. <ul style="list-style-type: none"> ▪ Failing to describe an increase resulting from the transition to a new salary schedule is likely to result in findings of noncompliance for an increase outside of the compensation plan and an increase not based on the statutory factors.

- Additionally, because such increases are not described, the compensation plan may not clearly demonstrate compliance with the 50% limitation and a finding of noncompliance may result.

NOTE: Adjustments to the initial salary of new teachers who were hired prior to the formal bargaining period of the current contract term are NOT considered salary increases and do not need to conform to the requirements of I.C. 20-28-9-1.5. Rather, such adjustments are viewed simply as the implementation of the subsequently bargained terms governing new hire salaries. (See the New Hire Salaries section below for more information on bargaining initial salaries.)

Examples

- Teachers will receive a \$500 increase to their base salary for satisfying each of the two factors.
 - Teachers will receive a 2% increase to their base salary for satisfying each of the two factors.
 - The amount of increase will be determined by the number of points the teacher earns multiplied by \$300.
 - Teachers who satisfy the evaluation factor will transition to the 2023-2024 salary schedule in the same row and column, receiving a \$500 increase.
 - \$100,000 will be divided by the total number of teacher points earned by eligible teachers. The resulting dollar value per point will be multiplied by the number of points the teacher earned.
 - Teachers who satisfy the evaluation factor will advance a row in their current column. Teachers who satisfy both the evaluation and education factors will advance one column to the right but remain in their current row.
- The parties may bargain that the Superintendent has the discretion to award salary increases to one or more teachers, regardless of whether the teacher is a new hire or a returning teacher, but the increase must be:
 - limited to bargained parameters or ranges (e.g., a set amount, a range of amounts, within the salary range, etc.);
 - awarded during the term of the CBA; and
 - in compliance with the 50% cap on increases based on education and experience.

Examples

- Compliant: The Superintendent shall have the discretion to increase an eligible teacher’s salary by an additional \$1,000 for meeting academic needs of students. Meeting academic needs of students is defined as the need to retain teachers important to the corporation.
- Not compliant: The Superintendent shall have the discretion to increase an eligible teacher’s salary by \$1,000. (This is not compliant because the discretionary increase is not based on the Academic Needs factor.)
- Not compliant: The Superintendent shall have the discretion to increase an eligible teacher’s salary based on the academic needs

