2026
CBA Compliance and MOUs

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Session Roadmap

- Compliance Review Process
- 2026 Compliance Results
- CBA Content
- Avoiding Common Noncompliance Issues & General Compliance Tips
- MOUs and Other Compliance Resources

CBA Review Process & 2026 Results

CBA Compliance Review

IEERB's statutory authority to review the CBA comes from I.C. § 20-29-6-6.1

- After CBA is ratified, the school employer must submit it to IEERB
  - Submission via Gateway for school employer
    - New for 2026 – Gateway will provide a message confirming successful CBA submission.
  - Exclusive Representative may also submit by emailing to ratifiedcontracts@ieerb.in.gov
  - The ratified CBA must also be posted on the school's website within 14 business days
- IEERB appoints a Compliance Officer to review each submitted CBA
- Compliance Officer issues a Compliance Report & Recommendation (CRR) before May 31st of the year in which the CBA expires
- Parties have a 15-day window for appeal of the CRR

Compliance Review Process: CRR Penalties

Noncompliant CBAs result in one of the following penalties:

- cease & desist penalty (with or without recommendation for technical assistance)
- compliance assessment conference (CAC) penalty
- prior approval (PA) penalty (may also include participation in pre-bargaining CAC)

Indiana Code § 20-29-6-6.1(f) provides the statutory basis for these penalties

> If . . . the board finds the collective bargaining agreement does not comply with this chapter, the board shall issue an order that may include one (1) or more of the following items:
>
> (1) Ordering the parties to **cease and desist** from all identified areas of noncompliance.
>
> (2) Preventing the parties from ratifying any subsequent collective bargaining agreements until the parties receive **written approval** from the board or the board's agent.
>
> (3) Requiring **other action as deemed appropriate** by the board as authorized by state law.”

2026
Compliance Results

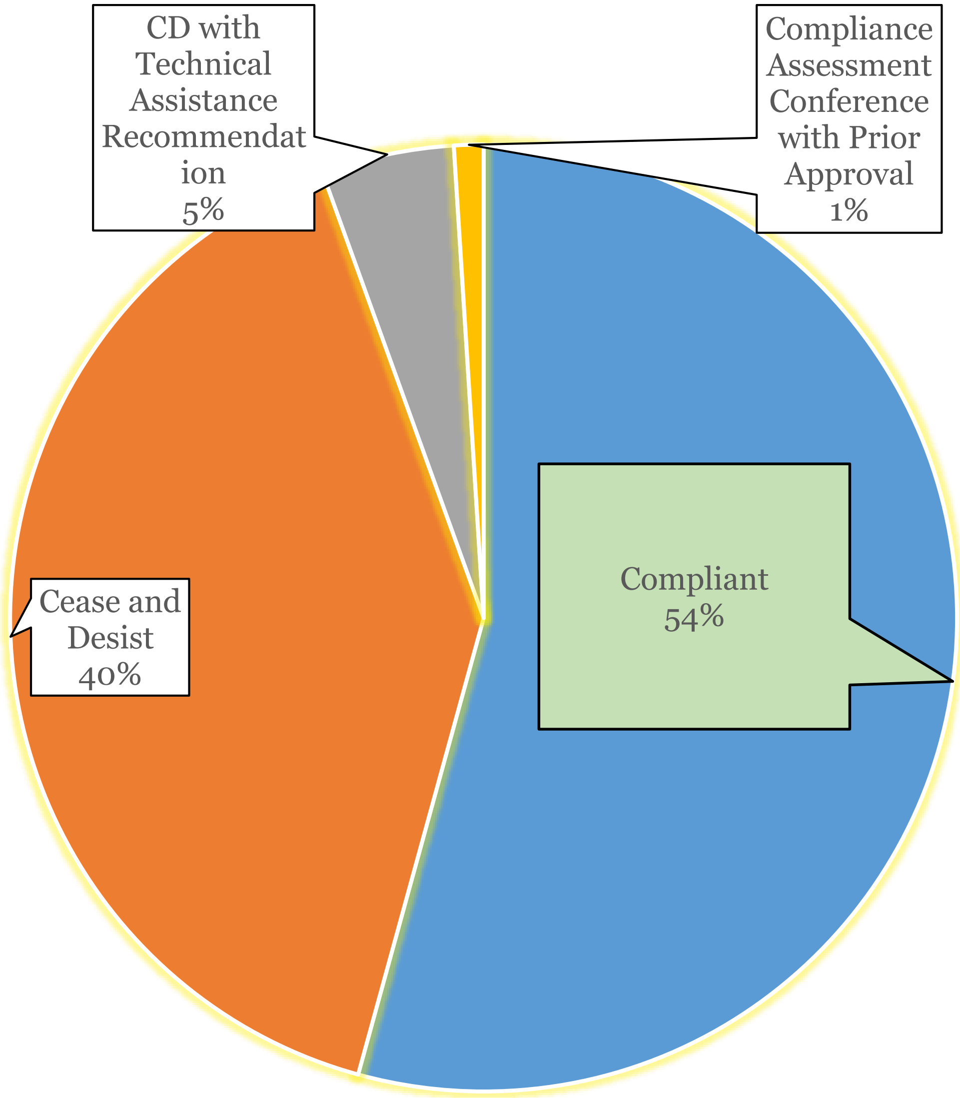
108 Compliant

91 Not Compliant

80 Not Compliant – Cease & Desist (CD)

9 Not Compliant – CD with Technical Assistance Recommendation

2 Not Compliant – Compliance Assessment Conference with Prior Approval



Based on **199 CRRs** Issued May 28, 2026

2026 Compliance Results: Technical Assistance

- Prior to and during the 2025-26 bargaining season, IEERB staff provided technical assistance to bargaining parties representing over 60 school corporations.

- 77% of school corporations participating in technical assistance submitted compliant CBAs.

Practice Pointer

IEERB encourages parties to seek technical assistance regarding any compliance concerns or questions prior to submission of their next CBA. Compliance@ieerb.in.gov

CBA Content

CBA Content: Required Terms and Provisions

There are 5 basic items or terms that **must** be included in every CBA:

- The names of the school employer and the exclusive representative
- The recognition clause in the CBA must match the IEERB order in effect at the time of ratification
- The beginning and ending dates of the CBA

  (end date no later than June 30, 2027)
- The date the CBA was ratified (cannot be prior to September 15)
- Attestation as to dates of public hearing and public meetings, and whether or not electronic participation by the governing body and the public was allowed

CBA Content: Mandatory Subjects of Bargaining

Parties are required to bargain salary, wages, and salary-related fringe benefits. IC 20-29-6-4.

<u>Compensation plan required components</u>:

- Salary Range (amount before any increase or ISTRF contributions)
  - Minimum $45,000 Salary Requirement for all full-time teachers
- Base Salary Differentiation for Possession of Literacy Endorsement (Amended Requirement)
- Salary Increase Factors* (must use at least 2)
- Increase Distribution Descriptions*

  10% Minimum Increase for Academic Needs

  50% Cap on Increases Based on Education and/or Experience

*Alternatively, if the parties bargain no increase or increment, a statement to that effect must be included in the compensation plan.

2026 Legislative Amendment: Base Salary Differentiation for Possession of Literacy Endorsement

Requirement: Base salaries of teachers who possess a literacy endorsement must be differentiated.

Effective July 1, 2026, IC 20-28-9-1.5(e) was amended as follows:

> A school corporation shall differentiate the amount of salary ~~increases or increments~~ for teachers who possess a ~~required~~ literacy endorsement under described in IC 20-28-5-19.7.

- The change from "differentiate the amount of salary increases or increments" to "differentiate the amount of salary" removes the ambiguity regarding whether possession of the literacy endorsement must be attributed to a factor in the compensation plan every year.
- Base salary differentiation for teachers who possess the literacy endorsement is **not** attributed to a factor.

2026 Legislative Amendment: Base Salary Differentiation for Possession of Literacy Endorsement

- **Regardless of whether the parties bargain an increase or increment for teachers in the current contract period, the base salary of all teachers who possess a literacy endorsement must be differentiated.**

  The base salary of a teacher who possesses a literacy endorsement must be different from the base salary of a teacher who otherwise has the same credentials but does not possess a literacy endorsement.

- Parties must clearly identify the amount of the bargained base salary differential for possession of a literacy endorsement.

- Because this base salary differentiation is not an increase or increment, parties must **not** include this base salary differentiation when calculating:
  - the total base salary increase,
  - the percent of increase attributable to academic needs, or
  - the percent of increase attributable to education and experience.

Avoiding Common Noncompliance Issues

2026 Compliance Results: Top Issues of Noncompliance

1. 50% Cap on Education and/or Experience
2. Academic Needs 10% Salary Increase Requirement
3. Amount or Method for Calculating Total Base Salary Increase
4. Increase Not Attributed to a Factor Requirements / Combo of 2+ Factors
5. $45,000 Minimum Salary Requirement
6. Non-Bargainable Subjects
7. Public Hearing & Meeting Attestations/Gateway Reporting
8. 72-Hour Requirement
9. Literacy Endorsement

Salary Amount or Calculation

- Pursuant to Indiana Code § 20-28-9-1.5(b), bargained increases in a local salary range must be made through a compensation plan.
- Pursuant to Indiana Code § 20-29-6-4(b), "salary and wages include the **amounts** of pay increases available to employees under the compensation plan."
- Per the 2026 Compliance Rubric, a compensation plan must <u>clearly describe</u> either the amount of the salary increase(s) or the method by which the increase(s) will be calculated.

Practice Pointer

Inconsistent and/or outdated increase provisions are often the culprit on this issue. Remember that IEERB staff are not at the bargaining table, so our compliance review is based on what is written in the CBA.

- Remove increase provisions bargained in prior CBAs that are inconsistent with current increase provisions. If increase provisions from previous years are inadvertently left in the compensation plan and these provisions are inconsistent, the CBA will not demonstrate compliance with the amount / calculation requirement.
- Ensure that increase descriptions within the compensation plan match increase provisions that are included as appendices, salary schedules, etc.
- Include/use the recommended Itemized Compensation Requirements template.

50% Cap on Education & Experience

Increases Subject to Cap

Years of experience factor

Content area degrees and **hours** factor ("education")

Other factors, *if defined, distributed, or differentiated according to teachers' education and/or experience*

CAUTION

Increases NOT Subject to Cap

Increases to reduce-the-gap*

Teacher retention catch-up increases*

Evaluation, Academic Needs, and Instructional Leadership factors without ed/exp component

**subject to statutory restrictions*

Calculation of percentage based on TOTAL possible increase

Exception to 50% Cap on Ed & Exp: Salary Increase to **Reduce the Gap**

- A salary increase differential may be used to **"reduce the gap"** between the minimum teacher salary and the average of the minimum and maximum teacher salary (i.e., the median). Indiana Code § 20-28-9-1.5(d)(1)
- A specific salary increase to reduce the gap **is exempt from the 50% requirement**. The 50% cap does not apply to the specific salary increase that is intended to reduce the gap as long as the gap is actually reduced.

TIP In order to take advantage of the reduce-the-gap exemption from the 50% requirement:

  - Parties must clearly identify the specific salary increase they are using to reduce the gap as such - e.g., "The salary increase for experience is to reduce the gap."
  - The specific salary increase must actually reduce the gap between the minimum and average salaries.

- If the specific increase is not identified, or the increase does not reduce the gap, the increase will be subject to the 50% restriction.

Exception to 50% Cap on Ed & Exp: **Teacher Retention Catch-Up**

A salary increase differential may be used to "allow teachers currently employed by the school corporation to receive a salary adjusted in comparison to starting base salaries of new teachers." Indiana Code § 20-28-9-1.5(d)(2)

<u>How to use a teacher retention catch-up</u>

- Use one of the five factors.
- Clearly identify the increase as a teacher retention catch-up.
- Describe the current teachers who will receive the increase.
  - May be a specific teacher or group of teachers, or subject to superintendent discretion.
  - May be described using experience level, content area, educational attainment, current salary, or any other objective metric or combination of metrics that would allow a teacher to determine if the catch-up applies to them.

Exception to 50% Cap on Ed & Exp: **Teacher Retention Catch-Up**

- Identify the amount of the increase or the method of calculating the increase.
  - May be a specified amount or differentiated amounts.
  - May include superintendent discretion within bargained parameters (limited by discretionary parameters bargained for new hires).
- Describe how the increase amount represents a comparison to the starting salaries of new teachers.
  - NOTE: If parties bargain that new teachers receive a salary commensurate with current teachers with similar education and experience, the parties will not be able to use a teacher retention catch-up.

Academic Needs Factor: 10% Requirement

Requirement: If a base salary increase is bargained, the compensation plan must demonstrate that the academic needs factor accounts for at least 10% of the total base salary increase calculation. IC 20-28-9-1.5(b)(4).

- Academic needs 10% minimum calculation is based on the total possible increase under the compensation plan, not the actual increase for any individual teacher.
- The parties may, but are not required to, define academic needs as the need to retain teachers employed in a high need area as identified by the school employer.
- Reminder: Compensation plan must still use a combination of at least 2 of the 5 statutory factors as the basis for salary increase.

Academic Needs Factor: Advance Notice of Statutory Requirements Coming Next Year

Current Requirement: If a base salary increase is bargained, the compensation plan must demonstrate that the academic needs factor accounts for at least 10% of the total base salary increase calculation. IC 20-28-9-1.5(b)(4).

The following additional requirements will take effect in the 2027-2028 school year:

- **The academic needs factor may not apply to all eligible teachers in a bargaining unit uniformly.**

- **The academic needs factor may not be based on any other factor.**

Failure to Attribute Increase to a Factor

Statutory Factors

must use at least 2

1. Experience
2. Possession of an additional content area degree or credit hours ("Education")
3. Evaluation
4. Instructional Leadership
5. Academic Needs - Required

- Across-the-board increases and/or transition to new salary schedule not described (example on next slide)

- Often an increase is described in the compensation plan, but not attributed to a factor
  - Example: Increase attributed to teaching dual credit course
    - Fix: Identify any non-factor basis for increase as subfactor(s) under Instructional Leadership or Academic Needs

Transition to New Salary Schedule NOT Described

- Example: Salary schedule includes $1,000 across-the-board increase from last year, but the compensation plan only describes increase amounts from advancing rows and columns
- Result:
  - FNC for increase outside the compensation plan; and
  - FNC for increase not attributed to statutory factor
  - Amount of transition increase included in the 50% calculation due to lack of factor attribution, which may result in a third FNC
- Solution: "Teachers that satisfy the academic needs factor transition to the 2026-27 SS in the same row and column and receive a $1,000 increase."

$45,000 Minimum Salary

Requirement: The compensation plan must clearly demonstrate or include a statement that all full-time classroom teachers are earning at least $45,000. IC 20-28-9-26.

- If the salary range before increases is below $45,000, but the salary of full-time teachers will meet the $45,000 statutory requirement after increases, the parties must include a salary statement to that effect.

CBA Example:

- At the beginning of the 2026-27 school year, the salaries of returning full-time teachers were between $43,000 and $70,000.
- After salary increases have been awarded through the compensation plan, the salary range for full-time teachers is $45,000 to $72,000, in compliance with IC 20-28-9-26.

Public Hearing / Meeting Attestations

Per I.C. § 20-29-6-6(b), the CBA must include attestations <u>signed by both parties</u> as to:

- 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
- 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**.

- Include the attestations on your signature page for ease in obtaining signatures.
- There is a compliant example on pages 4-5 of the Rubric that parties may use as a template.

Note: The dates of the public hearing and the public meeting, as well as <u>the electronic participation information</u> in the parties' attestations, must match the data entered for those same fields in Gateway.

72 Hour Requirement
(Between Public Meeting to Discuss TA and Ratification)

- Per Indiana Code § 20-29-6-19(a), the school employer must conduct a public meeting to discuss a tentative collective bargaining agreement at least 72 hours before the public meeting at which it is ratified.

- The date of the public meeting to discuss the tentative agreement **as reflected in the parties' attestation** must be at least 72 hours before the **ratification date identified in the CBA** to demonstrate compliance with the statutory requirement.
  - Double check the meeting and ratification dates reported in the CBA to ensure compliance with the 72-hour requirement.
  - CBA review team will not track down or double check dates in school board minutes – we simply look at the dates in the CBA.

Nonbargainable Subjects (NBS)

- **What you can bargain:**
  - **Salary, wages, and fringe benefits**
  - Grievance procedure (statutory carve-out)

- What you can't bargain:
  - Assignments (including regular teacher duties and ancillary duties)
  - Number of Positions for an Assignment
  - Evaluation Procedures
  - Hours, days, calendar
  - Composition of school or district wide committees
  - Working conditions
  - Supplemental Payments and Teacher Appreciation Grants
  - Any terms for employees not in the bargaining unit
  - **Anything that's not a salary, wage, or benefit**

NBS: Ancillary Duties

In 2021, the Indiana Supreme Court affirmed that parties may not bargain what constitutes an ancillary duty or any limitations on the assignment of such a duty.

> **“Teachers and schools may not bargain over work assignments, including ancillary duties, because this is an impermissible bargaining subject and interferes with school’s exclusive rights to assign and direct teachers’ work.”** *Culver Cmty. Teachers Ass'n v. Ind. Educ. Emp't Relations Bd.*, 174 N.E.3d 601 (Ind. 2021).

NBS: Ancillary Duties
What May and May NOT be Bargained

The school determines what constitutes an ancillary duty and how such duties will be assigned.

Parties may bargain only the compensation for an ancillary duty.

- The compensation for an ancillary duty may be monetary or in the form of additional release or compensatory time.
- An ancillary duty may occur during or outside of the regular teacher workday.

NOTE: The parties may bargain a limitation or condition on the wage, but not on the duty itself.

Parties cannot bargain what constitutes an ancillary duty or any parameters, restrictions, or limitations on the school's assignment of an ancillary duty.

- The school alone determines what constitutes an ancillary duty and how such duties will be assigned.
- Can't bargain: Volunteers, FCFS, Right of First Refusal, Number of Positions, Number of Students, etc.

NBS: Terms for non-unit-members

The CBA should include terms and provisions for bargaining unit members only.

Tips:

- Clarify ambiguities regarding who is excluded in the unit description
  - Example: use "boys and girls varsity high school basketball coaches" instead of "basketball coaches" to exclude those specific positions from the BU
- Avoid adding wages for excluded ECA positions or lay staff to your ECA schedule
  - If you DO add them there, be sure to clearly indicate that the wage for that position was not bargained and was included for informational purposes only
- If BU is limited to "full-time" don't bargain for teachers employed part-time, less than a full day, less than a full load, or less than full-time

NBS: Supplemental Payments

Supplemental payments are the nonbargained discretionary payments the school corporation may make to any teacher **in excess of the salary specified in the school corporation's compensation plan**.

TIP: If the parties do not bargain but wish to include a supplemental payment provision solely for informational or reference purposes, they must include a statement that the provision was not bargained but was included for informational purposes only.

- BUT NOTE: Because supplemental payments are payments in excess of the salary specified in the compensation plan, the parties cannot use a nonbargained supplemental payment in lieu of a **required** compensation plan component.
- For example, the CBA must not describe an increase resulting from row or column advancement on the salary schedule as a nonbargained supplemental payment.

NBS: Use of "Information Only" Statement

Per Indiana Code § 20-29-6-4, parties must bargain salary, wages, and salary and wage related fringe benefits.

Per Indiana Code § 20-29-6-4.5. Prohibited subjects of collective bargaining – "any subject not expressly listed in section 4."

- Statutory carve out allowing grievance procedures

The Indiana Supreme Court has authorized the use of "information only" statements to identify school policy or other information that parties have not actually bargained but have included in the CBA for informational purposes only.

- Parties have become adept at using the info only statements, and this has generally increased NBS compliance.
- <u>Cautionary Note</u>: Identifying a section or provision of the CBA that includes both salary & wages and NBS as being included for informational purposes only is noncompliant because salary and wages MUST be bargained.

Fix: *Any information in [the ECA schedule / this provision] beyond salary and wages was not bargained and is included for informational purposes only.*

Bargaining Unit Description (Recognition Clause)

- Must match most recent IEERB Order in effect on date of CBA ratification
  - Close does not count – it must match word for word
  - Tip: Avoid defining "teacher" differently than the unit description

- Unit changes, once certified by IEERB in an Order, are only applicable to subsequently ratified agreements, and do not modify the unit in the existing CBA.

- Ratifying a CBA with an amended unit description before an Order Amending the Bargaining Unit has been issued will result in an FNC.

General Tips for CBA Compliance

- Review your last compliance report carefully and don't skip the footnotes or general comments
- When bargaining: Is it salary, wages, or fringe benefits? If no, don't bargain it
- Including policy for reference purposes? Be sure to say that it wasn't bargained and was included for informational purposes only
- Beware of old language and remove if possible
- Content of prior year MOUs (originally attached to CBA) should be moved to body of CBA if the parties bargain to continue the terms
- Check dates and internal citations for accuracy and consistency
- Keep it simple

General Tips for CBA Compliance

Avoid defining factors using terms identified by the parties during bargaining but not memorialized in the CBA.

Common Error

<u>Noncompliant Definition</u>

"Academic needs means the importance of retaining particular teachers identified by the parties during bargaining."

- This definition does not provide the level of clarity needed for teachers to know what is required to earn the increase, or whether they will receive the increase.
- This definition implies that the parties have reached agreement on, and intend to be bound by, salary terms "identified by the parties during bargaining" but not memorialized in the CBA.

Example Fix: Academic needs means the importance of retaining all dual credit teachers, along with the following teachers (identified by employee number): 2394, 2830, 3058, 4948.

MOUs
&
Other Compliance Resources

What is an MOU?

- "Memorandum of Understanding"
- Term of Art
- Defined in 560 IAC 2-1-2(14)
  - any agreement ratified by both the school employer and exclusive representative that changes or modifies the terms of the CBA

When do you need an MOU?

- Any time the parties bargain a deviation from, or supplement to the terms agreed upon in the CBA, it must be memorialized in an MOU
- Whether you need an MOU depends on whether the CBA already contemplates what you're trying to achieve
  - Examples: Grant based stipends, unexpected need for new ECA position, employer health insurance contributions

*Due to legislative changes now requiring base salary differentiation for literacy endorsement possession, parties who bargained a 2-year CBA may want to consider if an MOU is needed to modify the compensation plan for year 2 to comply with the amended statute.

When do you need an MOU?

- Example: In response to increased interest in women's wrestling, school decides to add women's wrestling as a new ECA after ratifying and submitting CBA.
  - Question: Do you need an MOU to reflect the bargained wage for the coach of this new ECA?
  - Answer: It depends on your CBA terms.

- Scenario #1: The ECA Schedule in the CBA identifies wages for positions of "high school wrestling" and "middle school wrestling."
  - In this case, the CBA does not specify Men's/Women's for the wrestling positions, so the school can simply pay the women's wrestling coach the pay that is already identified in the ECA without needing an MOU.

- Scenario #2: The ECA Schedule identifies wages for the positions of "men's wrestling."
  - In this case, use of an MOU would be appropriate to supplement the existing terms of the CBA.

When is an MOU allowed?

- During the formal bargaining period (September 15 – November 15)
- Outside the formal bargaining period, in either of the following circumstances (560 IAC 2-8-4(d)):
  - Newly discovered information / unanticipated event not known at CBA ratification; or
  - IEERB issued nonrule policy guidance re: unanticipated circumstances impacting multiple parties

What is the scope of an MOU?

- Just like the CBA it modifies, an MOU's scope is limited to bargainable subjects:
  - Salary
  - Wages
  - Salary and Wage related fringe benefits

MOU Compliance

- Pre-approval is available upon request by emailing draft and written explanation to compliance@ieerb.in.gov
  - Remember to copy other party on your email request
  - Include desired turnaround time
  - Leave yourself some time for changes
- Compliance findings/comments are issued in subsequent CRR or in Addendum if CRR already issued

RESOURCE: [2026 MOU Quick Reference Guide]

MOU Submission

- Must be signed (ratified) by a representative of each party
  - Union President
  - School Board Member(s)
- Ratification dates required
- If outside formal bargaining period, parties must draft written statement of why MOU is needed, and how it meets one of the exceptions
- Upload MOU and explanation of need to Gateway within 10 business days of ratification
- MOU must be posted on corp. website within 14 business days of ratification
  - Put it in the same place the CBA is published
- Review subsequent Compliance Report or Addendum for any issues

- RESOURCE: 2026 MOU Quick Reference Guide

Why should MOUs generally be avoided?

- Remember that all bargaining should occur during the formal bargaining period
  - Exceptions should be rare
- Time intensive and MOU use requires action of governing body
- Risk of noncompliance

2026 CBA Compliance Guidance / Resources

- 2026 CBA Compliance Rubric
  - A “how-to” reference guide for CBA Compliance
  - Organized by topic, this document provides explanations, tips, and examples
    - Updates and changes to the Rubric are noted in RED
- 2026 CBA Compliance Checklist
  - One page tool to note the page of various CBA components and check off completion
  - Useful during drafting and for final review of CBA

Additional Compliance Guidance

IEERB Compliance Webpage

- 2026 Model Compensation Plans
- 2026 Compensation Plan FAQs
- 2026 Guide to CBA Compliance
- 2026 Guide to Compensating Teachers for Graduate Degrees and Credit Hours
- IEERB Gateway Apps

CBA Compliance Quiz: Fill in the Blank

1. The statutory minimum salary for full-time teachers is _______________.
   - $45,000
2. The CBA must demonstrate the base salary of all teachers who possess a literacy endorsement is ___________.
   - differentiated
3. To the extent that parties bargain a salary increase, the minimum increase attributable to the academic needs factor is ______ %.
   - 10

CBA Compliance Quiz: True or False

1. The CBA must demonstrate differentiation of base salaries for possession of the literacy endorsement even if the parties otherwise bargain no salary increase or increment.
   - True (The CBA must include differentiation for possession of the literacy endorsement even if the comp plan includes a statement that no salary increase or increment was bargained for the current contract period.)
2. If the public meeting to discuss a tentative agreement occurs at least 72 hours before the CBA is ratified, but the CBA inaccurately states that the public meeting and ratification occurred on the same day, then a finding of noncompliance will be issued.
   - True (Inaccurate reporting of dates in the CBA resulted in findings of noncompliance for several schools in 2025-2026. IEERB staff determines compliance with the 72-hour rule based exclusively on information <u>reported in the CBA</u>. IEERB does not track down board meeting minutes or other documents to determine compliance with this requirement.)