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IEERB 2026 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 2026 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.

Summary of Legislative Changes Effective July 1, 2026
Salary Differentiation for Possession of Literacy Endorsement: Parties must differentiate the base salaries of all teachers who possess the literacy endorsement. The former requirement to "differentiate the amount of salary increases or increments" was changed to "differentiate the amount of salary." This legislative clarification removes the ambiguity regarding whether possession of the literacy endorsement must be attributed to a factor in the compensation plan every year and requires the overall base salary to be differentiated. This base salary differentiation is not attributable to a factor. Parties must not include this 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.

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 (CRR) 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 2026 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 2026 CBA COMPLIANCE RUBRIC
REQUIRED PROVISIONS

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

<table>
<tr><td>Required item</td><td>Description – Examples[1] – Tips</td></tr>
<tr><td>Parties to the collective bargaining agreement (CBA)</td><td>The names of the school employer and exclusive representative must be identified in the CBA.</td></tr>
<tr><td>Bargaining unit description is included and matches most recent IEERB order on unit composition</td><td>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.
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).

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/.</td></tr>
<tr><td>Term of the CBA cannot extend beyond the state biennium</td><td>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, 2027.
Examples
Compliant
The term of the CBA is from September 15, 2026, to June 30, 2027.
This Agreement is effective from July 1, 2025, through June 30, 2027.
Not Compliant
The CBA is effective for the 2025-26 and 2026-27 school years.
The term of the CBA is from September 15, 2025, to July 31, 2027.</td></tr>
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[1] The examples included throughout this document are illustrative only and are intended to promote a better understanding of the particular requirement.

Ratified and signed by the parties on or after September 15	• The CBA must be ratified, approved by a majority vote of the governing body, **on or after <u>September 15</u>**. • 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 2026-27 CBA can be effective July 1, 2026, but can't be ratified until September 15, 2026, or later. • The 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 IC 20-26-4-8. **Examples** ▪ The CBA was ratified by both parties on September 20, 2026. Signed: *John Smith* Signed: *Alice Jones* ▪ Signed: *John Smith* Date: 09/20/26 Signed: *Alice Jones* Date: 09/18/26 **TIP:** Sign and date the CBA at the time of ratification. **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.
Includes attestations to the dates of the public hearing and the public meeting held and whether electronic participation was allowed at each	Per IC 20-29-6-6(b), the CBA must include an attestation signed by both parties as to: (a) the dates that the pre-bargaining public hearing described in IC 20-29-6-1(b) and the public meeting to discuss the tentative agreement described in IC 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 IC 20-29-6-1(b) and IC 20–29–6–19 in their attestation. **Note:** Each attestation functions as the signing party's sworn statement that the stated facts are true and accurate. It is critical that parties exercise the utmost care to individually verify the information to which they are attesting. A party must never swear to statements that are false, even inadvertently. Attesting to false information may result in a finding of noncompliance. **TIP**: Parties must actually attest to the accuracy of the required information. This can be done by prefacing the dates of the pre-bargaining public hearing and public meeting to discuss the tentative agreement, along with the electronic participation information, with a clear statement – e.g., The undersigned attest to the following: **Examples** • **Compliant** ○ The undersigned attest to the following: 1. A public hearing was held in compliance with IC 20-29-6-1(b) on ___________________ (date), and electronic participation from the

	governing body and public ____________________ (was/was not) permitted; and
	2. A public meeting in compliance with IC 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**
	  ○ The undersigned attest to the following:
	    A public hearing and a public meeting were held in compliance with statute. Electronic participation was permitted.
	
	Note: The pre-bargaining public hearing may occur at a regular school board meeting.
	
	TIP: Include the attestation on your signature page for ease in obtaining signatures.
	
	TIP: To ensure accurate and transparent data reporting to the public, the dates of the public hearing and the public meeting, as well as the electronic participation information in the parties' attestation, must match the data entered for those same fields in Gateway. Inconsistently reported attestation information will result in a General Comment in the CRR.
	For additional information, see the Guide to Public Hearing and Public Meetings.

Public meeting to discuss tentative agreement conducted at least 72 hours before ratification	• Per IC 20-29-6-19(a), the school employer must conduct a public meeting to discuss a tentative 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.
Posted on school website within fourteen (14) business days after ratification	Per IC 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 school board ratification. The posted CBA must be identical to the CBA uploaded to Gateway.

PERMISSIBLE PROVISIONS

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

<table>
<tr><td>Permissible item</td><td>Description – Examples – Tips</td></tr>
<tr><td>Grievance procedure</td><td>• 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.</td></tr>
<tr><td>General definitions of CBA terms</td><td>• Definitions of general terms that apply throughout the CBA.
Examples
▪ Days means calendar days unless otherwise specified.
▪ Teacher, when used in this contract, means each and every member of the bargaining unit as described.</td></tr>
<tr><td>Contract interpretation provisions</td><td>Examples
▪ 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.</td></tr>
<tr><td>Increase Eligibility Statement

Parties may include a statement of eligibility for a salary increase
(Does not apply to base salary differentiation for literacy endorsement possession)</td><td>Effective July 1, 2025, parties are no longer required to include a clear statement of eligibility for a salary increase or increment. While no longer a statutory requirement, the inclusion of an increase eligibility statement is permissible. Parties may continue to bargain eligibility criteria and limit the receipt of salary <u>increases or increments</u> to only those teachers who meet those bargained eligibility criteria; however, the inclusion of an optional increase eligibility statement must not preclude the differentiation of salaries for teachers who possess a literacy endorsement as required by IC 20-28-9-1.5(e).
• If bargained, the statement of increase eligibility:
▪ may include <u>any</u> eligibility criteria bargained by the parties;
▪ may or may not include the evaluation rating criteria formerly required by statute;
▪ may include salary caps;
▪ must be stated separately from statements identifying and/or defining the compensation plan factors;
▪ should not refer to outdated statutory provisions, and</td></tr>
</table>

	▪ must not preclude salary differentiation for literacy endorsement possession. **Examples** Compliant: Teachers rated ineffective or improvement necessary in the prior year are not eligible for a salary increase in the current year. Not compliant: Teachers rated ineffective or improvement necessary in the prior year are not eligible for a salary increase in the current year and remain at their prior year salary. (While a teacher who recently attained a literacy endorsement but was rated improvement necessary is not eligible for a salary increase, the base salary of this teacher must still be differentiated for possession of the literacy endorsement. As a result of this differentiation, the salary of such a teacher would not remain the same.) **NOTE:** The evaluation rating scale described in any evaluation-based eligibility criterion should match the language adopted by the school corporation in the teacher evaluation instrument. While parties may bargain an evaluation-based eligibility criterion (or any other criteria), school corporations continue to have unilateral authority to establish the teacher evaluation policies and procedures.
Renegotiation Provision (2-year CBA only)	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 CBA terms for the second year of a 2-year CBA. **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 CBA Upload by November 15 to avoid a declaration of impasse.

REQUIRED SUBJECTS

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

<table>
<tr><th colspan="2">COMPENSATION PLAN</th></tr>
<tr><td>Required Item</td><td>Description – Examples – Tips</td></tr>
<tr><td>SALARY RANGE
Must include salary range statement</td><td>

The compensation plan must include a clear statement of the salary range of the lowest and highest <u>annual</u> 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:

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.

Example
At the beginning of the 2026-27 school year, the salaries of returning full-time teachers were between $45,000 and $70,000.

Under the compensation plan, teachers will each get a $1,500 salary increase.

After the increase is awarded, full-time teachers will be making $46,500 to $71,500.

Required salary range statement: The salary range is $45,000 to $70,000 for returning full-time teachers.
Optional additional salary range statements:

The salary range after increases are awarded is $46,500 to $71,500.
The salary range for teachers with a Bachelor’s degree is from $46,500 to $60,000. The range for teachers with a Master’s degree is from $47,000 to $71,500.
The salary range, including the school’s contribution to ISTRF is $47,895 to $73,645.

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.
</td></tr>
<tr><td>STATEMENT IF NO SALARY INCREASE OR INCREMENT</td><td>

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.
</td></tr>
</table>

Must include a statement if no increases are bargained	**NOTE:** If the parties bargain there will be no base salary increase or increment for teachers in the current contract period, the base salary of teachers who possess a literacy endorsement must still be differentiated to reflect this possession. While the Compliance Officer will review the compensation plan to ensure differentiation for possession of the literacy endorsement, no findings of noncompliance will be made regarding the inclusion of suspended increase-related components, e.g., factor definitions, distribution provisions, etc. **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 must include a clear statement to that effect, specifying the school year for which there will be no base salary increase or increment. • 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. **Examples** ▪ For 2026-27, 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 2026-27 is $0. ▪ All funds allocated to the compensation plan for 2026-27 will be paid as stipends and no base salary increases will be awarded. ▪ For 2025-26, the parties have bargained a base salary increase, described below. For 2026-27, the parties have bargained that there will be no base salary increase or increment.
MINIMUM SALARY **Must demonstrate compliance with $45,000 minimum salary requirement**	• For each school year beginning after June 30, 2025, 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-five thousand dollars ($45,000), in compliance with 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 should include a salary statement to that effect. **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.
SALARY DIFFERENTIATION FOR TEACHERS WHO POSSESS THE LITERACY ENDORSEMENT	IC 20-28-9-1.5(e) requires base salary differentiation for teachers who possess a literacy endorsement. HEA 1266 (2026) removed the reference to "increases or increments." 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

Must differentiate the base salaries of teachers who possess the literacy endorsement	endorsement must be attributed to a factor in the compensation plan every year. • Base salary differentiation for teachers who possess the literacy endorsement must not be attributed to a factor. Instead, parties must identify and describe base salary differentiation for literacy endorsement possession in a separate section of the compensation plan. • This adjustment to the base salary of teachers who possess the literacy endorsement is the only statutory exception to the requirement that all increases be attributed to a combination of factors. • The compensation plan must clearly describe the amount of the bargained base salary differential for possession of a literacy endorsement. This base salary differentiation must apply to all teachers who have added the endorsement to their license, i.e., 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. • Because this base salary differentiation is not an increase or increment, parties must not include this 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 • Regardless of whether the parties bargain a salary increase or increment for teachers in the current contract period, the base salary of teachers who have newly attained a literacy endorsement must be differentiated to reflect this possession. • See 2026 CBA Recommended Format or 2026 Model Compensation Plans.
SALARY INCREASE Salary increase must be for the current contract period	• 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 must not be included in the current contract. Extensive terms related to prior agreements should be included in the CBA only to the extent they remain relevant. **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, 2027.
SALARY INCREASE Method for determining salary increase must be described	• **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 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. ▪ 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 IC 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 the academic needs factor and a $500 increase to their base for satisfying the education factor, for a total possible increase of $1,000. ▪ Teachers will receive up to a 2% increase to their base salary for satisfying the factors. Satisfaction of the evaluation factor results in a 1% increase, and satisfaction of the academic needs factor results in a 1% increase. ▪ The amount of increase will be determined by the number of points the teacher earns multiplied by $300. ▪ Teachers who satisfy the academic needs factor will transition to the 2026-27 salary schedule in the same row and column, receiving a $500 increase. In addition, teachers who satisfy the evaluation factor will move down one row, receiving a $500 increase, for a total possible increase of $1,000. ▪ $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. • 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; ▪ in compliance with the 10% academic needs requirements; 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, including teachers who teach special education, dual credit, or engineering classes. ▪ 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 a salary increase factor.) ▪ Not compliant: The Superintendent shall have the discretion to increase an eligible teacher's salary based on the academic needs factor. (This is not compliant because there is no limit or range identified for the amount of salary increase the superintendent can award.) See the "New Hire Salaries" section for guidance on superintendent discretion in determining new hire salaries. **TIP:** Watch out for "mixing" methods when calculating a salary increase as it creates an increased possibility of noncompliance. (e.g., don't use a percentage for one factor + a flat amount for another factor or a flat amount for one factor + a pool divided by points for another factor.) ▪ If parties "mix" calculation methods, it is difficult (if not impossible) to demonstrate that the compensation plan is compliant with the 10% academic needs and 50% education and experience requirements. If the compensation plan does not demonstrate that it is compliant with these requirements, a finding of noncompliance will be issued. ▪ **NOTE that this applies only to how a salary increase is <u>calculated</u>, not the types of compensation. Parties may continue to give stipends in lieu of a salary increase to teachers whose salary is capped at the maximum. Parties may also continue to bargain stipends in addition to salary increases.** **TIP:** Clearly identify the Compensation Plan section in the CBA and make sure that all salary increases are described within that section. **TIP: Increases provided to teachers on or returning from extended leave must also be included in the compensation plan and must satisfy the requirements of IC 20-28-9-1.5**, unless such increases are otherwise required by law (e.g., certain teachers who return from military service and are entitled to pay increases they would have earned but for the absence).
COMBINATION OF FACTORS Must use a combination of statutory factors as basis for salary increase	• Salary increases must be based on at least two of the following five factors: ▪ The number of years of a teacher's experience ▪ Possession of an additional content area degree or credit hours beyond the requirements for employment ▪ The results of **<u>an</u>** evaluation ▪ Assignment of instructional leadership roles ▪ Academic needs of students in the corporation

	While the total possible salary increase under the compensation plan must be based on a combination of two or more factors, portions of the total possible increase can (and should) be attributed to individual factors. **Example** • The compensation plan provides for a total possible salary increase of up to $2,000. Teachers who satisfy the academic needs factor receive $500, teachers who satisfy the instructional needs factor receive $1,000, and teachers who possess a content area Master's degree receive $500. (This is compliant because the compensation plan provides for up to $2,000 based on a combination of academic needs, instructional leadership, and education factors.) • If a stipend – but no increase or increment – is based on a factor, that factor is not considered in the salary increase combination of factors requirement. **Example** The compensation plan provides for both a salary increase and a stipend, using four factors: academic needs, instructional leadership, a year of experience, and possession of a content area Master's degree. ▪ Compliant: The amounts for academic needs, instructional leadership and possession of a content area Master's degree are added to the base salary, and the amount for a year of experience is paid as a stipend. (This is compliant because the salary increase is based on at least two factors.) ▪ Not compliant: The amount for academic needs is added to the base salary, and the amounts for a year of experience, instructional leadership and possession of a Master's degree are paid as a stipend. (This is not compliant because the salary increase is based on only one factor.) **TIP**: Avoid using "education/experience" or "experience/degree" as a single factor on which a salary increase is based. If a compensation plan provides that the salary increase is based on "education/experience," "experience/degree," or something similar, the plan must define both of the factors and indicate how much each of the two factors contributes to the salary increase. **TIP**: "Across-the-Board" increases to the salary schedule and "Return from Leave" increases must be included in the compensation plan and attributed to a factor.
COMBINATION OF FACTORS Must attribute at least 10% of increase to academic needs factor	• The compensation plan must demonstrate that the increase attributed to the academic needs factor accounts for at least 10% of the total base salary calculation, pursuant to IC 20-28-9-1.5(b)(4). • The academic needs 10% minimum calculation is based on the total possible increase available under the compensation plan, not the actual increase for any individual teacher.
FACTOR DEFINITIONS Factors must be defined	• The factors must be clearly defined so that teachers know what is required to satisfy the factor.

	• Increases attributed to a factor must be distributed in a manner consistent with the factor's definition and not according to additional parameters beyond those required to satisfy the factor. • "Evaluation" (if used as a factor) may be defined in terms of teacher evaluation ratings, consistent with the evaluation instrument developed by the school corporation. • "Years of experience" (if used as a factor) must be defined with some measurable specificity (e.g., employed 120 days in a given school year; a year of service as defined by INPRS, etc.) • "Possession of an additional degree or credit hours" (if used as a factor) must be defined to show that the degree and/or credit hours are limited to content area and are in addition to what is required for employment. • Content area is defined by the Indiana Department of Education (IDOE) consistent with the definition provided in the Indiana State Board of Education (ISBOE) Rules: "Content area" means the: ▪ subject matter an applicant is licensed to teach; or ▪ administrative or service function an applicant is licensed to provide. 511 IAC 10.1-1-1(9) • Only degrees meeting the IDOE / ISBOE definition of content area qualify, and parties may not approve additional content areas that do not satisfy this definition. • "Assignment of instructional leadership roles" (if used as a factor) is defined by the parties. The parties have flexibility in defining the factor, but it must be defined with some measurable specificity. • "Academic needs of students" must be defined with some descriptor -- it can't just be defined as "academic needs." The parties may, but are not required to, define it as the need to retain teachers employed in a high need area as identified by the school employer. **TIP**: Avoid defining factors using terms identified by the parties during bargaining but not memorialized in the CBA. **Examples** <u>Compliant</u> • Evaluation means not having received a rating of Ineffective or Improvement Necessary on the teacher's most recent evaluation. • Year of experience is defined as having been employed by the school for at least 120 days in the prior school year. • Teachers will receive a $1,000 increase to their base salary for possession of an eligible content area Master's degree that is not otherwise required for employment. Eligible content areas mean any content area, as defined by IDOE, in which the teacher currently teaches or any other content area approved by the superintendent. • Assignment of instructional leadership role means completing one of the following: (1) teach a dual credit course; (2) be a volunteer tutor or provide after school hours assistance to students at least 10 hours per semester; or (3) serve as a trainer in a professional

	development activity that has been pre-approved by the superintendent. • Academic Needs is defined as being employed in one of the following high need area[s] of the corporation, including:______________, or such other area of need as identified by the Superintendent. • Academic Needs is satisfied by any one of the following: (1) attaining National Board certification; (2) serving on a curriculum development committee; or (3) participating in at least three hours of professional development to improve student outcomes. • Academic needs is defined as the need to retain the following teachers important to the corporation: ID#8569, ID#6398, etc. for the following reason(s): ___________________. Academic needs is defined as the need to retain the following teachers for reason(s) other than education and/or experience: ____________. <u>Not compliant</u> • Evaluation means five or more years of highly effective or effective ratings. (The statutory factor is for <u>an</u> evaluation rather than multiple evaluations.) • Year of experience means an additional year of teaching. (“Additional year” needs more specificity – e.g., does it require 180 days? 120 days? etc.) • Eligible teachers will receive a $1,000 increase to their base salaries for having a Master’s degree. (Salary increases for possession of a Master’s degree must be limited to content area (as defined by IDOE) Master’s degree only.) • Eligible teachers will receive a $1,000 increase to their base salaries for having a Master’s degree in a content area as defined by IDOE or another content area approved by the superintendent. (The superintendent does not have authority to define something as “content area” if it does not meet the IDOE definition.) • Instructional leadership means engaging in activities in one of the five tiers of leadership. (Insufficient definition because it can’t be determined if it impacts the 50% restriction. If the leadership factor is defined to include education or experience, it is considered in determining compliance with the 50% restriction.) • Academic needs means meeting students’ academic needs. (Insufficient definition because it does not specify what a teacher must actually do to satisfy the factor and earn the increase.) • 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. Furthermore, 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.)

50% LIMITATION Education ("possession of an additional content area degree or credit hours") and experience cannot account for more than 50% of the increase, except where intended to "reduce the gap" or implement a teacher retention catch-up increase	• The 50% calculation is based on the total possible increase available under the compensation plan, not the actual increase for any individual teacher. • The compensation plan must demonstrate that education and experience do not account for more than 50% of the increase unless the intent of the increase is to reduce the gap between the minimum salary and the average of the minimum and maximum salary (IC 20-28-9-1.5(d)(1)) or to implement a teacher retention catch-up increase (IC 20-28-9-1.5)(d)(2)). (See the Exceptions to the 50% Limitation section of the Rubric for additional guidance on a salary increase to reduce the gap and teacher retention catch-up increases.) • If the parties use education and/or experience as factors without indicating how much each factor contributes to the salary increase, the factors will be equally weighted. For example, if the increase is based on evaluation rating, experience, and education, but no percentage or weight is attached, each factor is considered to be 33.33% of the increase, and therefore not compliant because education and experience make up 66.67% of the increase (unless the education or experience increase is intended to reduce the gap or implement a teacher retention catch-up). • The total amount of increase attributable to education and/or experience must be paid in the current contract year. The parties cannot bargain to defer any part of the increase to a future year as a means of complying with the 50% requirement in the current contract period. • If salary schedule movement results from accumulation of points earned by satisfying a combination of salary increase factor requirements over the course of multiple years, but the number of total points available in any single year is insufficient to satisfy movement requirements, then the entire increase will be interpreted as being differentiated based on experience, and the increase will be included in the 50% calculation. **Examples – Demonstrating compliance with 50%** <u>Increase distribution clearly demonstrates compliance</u> Factors and amounts of increase • Academic Needs = $1,000 • Experience = $500 • Possession of a content area Master's degree = $500 The maximum available increase = $2,000. Experience and education account for $1,000 – or 50% - of the maximum increase available. <u>Increase distribution demonstrates compliance</u> Factors and amount of increase • Academic Needs • Experience • Teachers who satisfy both factors will receive a $1,000 increase. The maximum increase = $1,000.

	Because the factors are not weighted, the compliance officer assumes each factor contributes equally (50%) to the salary increase. Because there are no increases for education, and experience does not exceed 50% of the total possible salary increase, and because academic needs exceeds the 10% minimum, this increase distribution is compliant. <u>Increase distribution fails to demonstrate compliance</u> Factors and amounts of increase • Academic Needs • Experience • Teachers who satisfy both academic needs and experience will receive a $1,000 increase. • Possession of a content area Master's degree = $500 The maximum available increase = $1,500. (Because academic needs and experience are not weighted, the compliance officer assumes each factor contributes equally (50%) to the $1000 salary increase. The $500 increase for experience and the $500 increase for education, when combined, account for $1000 – or 66.67% - of the $1,500 maximum possible increase. Because experience and education account for greater than 50% of the increase, it is not compliant.) • If parties bargain a salary increase to **reduce the gap** or a **teacher retention catch-up increase**, the amount of the specific increase is included in the maximum available increase, but is exempt from being included in the calculation of the 50% cap. • To have the benefit of the reduce-the-gap exemption, the gap between the minimum and average salary must actually be reduced. If the gap is not reduced, the salary increase must comply with the 50% requirement. • To have the benefit of a teacher retention catch-up increase, the increase must adjust the salary of teachers currently employed by the school corporation **in comparison to the starting salaries of new teachers.** If the increase does not demonstrate that it is made in comparison to new teacher salaries, it must comply with the 50% requirement. • Any salary increase outside the compensation plan that is based on education and/or experience will be included in the 50% calculation. • Any salary increase not described in the CBA or not attributed to a factor will be included in the 50% calculation. • If education or experience are included in the definition of any other factor and/or in the manner for distributing increases for any other factor, the portion of the distribution based on experience or education will be included in the calculation of the 50%. o If it is unclear what portion of the distribution is based on experience or education, the entire increase amount for the factor will count towards the 50% cap.

	○ **But Note** -- If the factor is the basis for a salary increase to reduce the gap or implement a teacher retention catch-up, the amount of salary increase for the factor is exempt from the 50% restriction as long as the requirements for those exceptions have been met (see Exceptions to the 50% Limitation section below). **TIP:** If the parties use, but fail to define, other factors, the Compliance Officer may be unable to confirm compliance with the 50% cap because they can't tell if education and/or experience are criteria in these factors. If the parties fail to clearly demonstrate compliance with the requirement, a finding of noncompliance may result. **TIP:** If the compensation plan provides for both a salary increase and a stipend, only the factors used for the salary increase will be considered in the 50% calculation. The factors used as the basis for the stipend are not included in the calculation.
EXCEPTIONS TO THE 50% LIMITATION: **Reducing the Gap and Implementing a Teacher Retention Catch-Up**	As detailed in the prior section, the compensation plan must demonstrate that education and experience do not account for more than 50% of the total salary increase unless the intent of the increase is to reduce the gap between the minimum salary and the average of the minimum and maximum salary (IC 20-28-9-1.5(d)(1)) or to implement a teacher retention catch-up increase (IC 20-28-9-1.5(d)(2)). **Reducing the gap** (IC 20-28-9-1.5(d)(1)) • 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 of the salary range. • 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 <u>as long as the gap is actually reduced.</u> • <u>If the gap is not reduced, there is no exemption from the 50% requirement.</u> • The particular increase to reduce the gap <u>must be clearly identified</u> as such – e.g., "The salary increase for experience is to reduce the gap." • The salary range on which the "gap" is calculated must be clearly stated and accurately reflect the minimum and maximum salary of full-time returning teachers without any ISTRF contribution and before any increases are implemented for the current year. (NOTE: This should be the same as your required salary range statement.) • <u>If the salary range is incorrect, parties risk potential noncompliance if the compliance officer is unable to confirm that the salary increase reduces the gap as intended.</u> • The compensation plan must include sufficient information for the compliance officer to confirm that the gap has been reduced. • The "average" and the "gap" can change each year because they are determined by the current year's salary range for returning teachers.

How to reduce the gap

- The "**average of the minimum and maximum salary,"** i.e., the mathematic median of the salary range, is determined by adding the minimum and maximum salary in the salary range and dividing by two.
- The **gap** is the difference between the minimum and the average of the minimum and maximum salary.
- To be compliant, the gap between the minimum and average of the minimum and maximum salary must be smaller as a result of the specific "reduce the gap" salary increase. **NOTE:** Only the specific "reduce the gap" salary increase is used in determining if the gap has been reduced. The salary increases for other factors are not used in this determination.

Example

Salary range = $43,000 to $68,000
Median salary (average of minimum and maximum) = $55,500
Gap = $12,500

Academic Needs Factor = $1,000
Experience factor (The salary increase for experience is to reduce the gap)

- Teachers with 1 or 2 years' experience = $2,000
- Teachers with 3 or 4 years' experience = $1,500
- Teachers with more than 4 years' experience = $500

Minimum + reduce the gap increase = $45,000 ($43,000 + $2,000)
Maximum + reduce the gap increase = $68,500 ($68,000 + $500)
New range = $45,000 to $68,500
New median salary (average of minimum and maximum) = $56,750
New gap = $11,750

The gap has been reduced by $750. ($12,500-11,750 = -$750)

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.**
- **The specific salary increase must actually reduce the gap between the minimum salary and average of the minimum and maximum 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.

Teacher Retention Catch-up (IC 20-28-9-1.5(d)(2))

- 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."
- A specific **"teacher retention catch-up"** increase is exempt from the 50% requirement.
- Teacher retention catch-up increases **must be attributed to a factor**. Teachers who receive the catch-up increase may be identified using education and/or experience without risk of exceeding the 50% cap.

	- The particular teacher retention catch-up increase <u>must be clearly identified</u> as such – e.g., “The salary increase for academic needs is a teacher retention catch-up increase.” - Because teacher retention catch-up increases are salary adjustments made in comparison to new teacher salaries, they are necessarily limited by what the parties bargain for 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.) **How to use a teacher retention catch-up** - 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. - 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. **Examples** - The experience factor is a teacher retention catch-up and is defined as the need to retain teachers with one or more years’ experience by increasing these teachers’ salaries an additional $1,000 in comparison to the $1,000 increase in the new minimum teacher salary. - The academic needs factor is a teacher retention catch-up and is defined as the superintendent’s discretion to adjust the salary of a current teacher up to an additional $500 or the amount on the new teacher salary grid for a new teacher with comparable education and experience, whichever is lower. - The experience factor is a teacher retention catch-up and is defined as the need to retain teachers making $43,000 or more but less than $45,000 with 8 years of experience by increasing their base salary to $45,000, the starting salary of a new teacher with 8 years of experience. - The academic needs factor is a teacher retention catch-up and is defined as the need to provide teachers in a hard-to-fill content area with an increase not to exceed the maximum salary amount at which the superintendent may hire a new teacher in that content area.

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ITEMIZED COMPENSATION REQUIREMENTS

Summary included to clearly demonstrate:
(1) total possible base salary increase available to teachers under the compensation plan; (2) compliance with the 50% limit on education and experience; and

(3) compliance with the 10% academic needs requirement

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If an increase is bargained, the compensation plan must demonstrate compliance with the following requirements:

- Pursuant to IC 20-28-9-1.5(b)(1), years of experience and the possession of an additional content area degree or credit hours ("education") cannot account for more than 50% of the total salary increase; and
- The compensation plan must demonstrate that the increase attributed to the academic needs factor accounts for at least 10% of the total base salary calculation, pursuant to IC 20-28-9-1.5(b)(4).

The inclusion of itemized compensation requirements allows parties to clearly demonstrate compliance with the 50% limit on the combination of increases for education and experience, and the academic needs 10% minimum requirement based on the calculation of total amount available under the current compensation plan.

NOTE:

The maximum 50% cap for education and experience and the academic needs minimum 10% calculation are both based on calculation of the total possible increase available under the compensation plan, not the actual increase for any individual teacher.

TEMPLATE:

- Calculation of Total Possible Base Salary Increase Available to Teachers Under the Compensation Plan = $______
- Increase attributable to education and experience:
  - Increase attributable to education = $______
  - Increase attributable to experience = $______
  - The combined increase for education and experience is $______, which is ____% of the total possible increase.
- Increase attributable to academic needs = $______, which is ____% of the total possible increase.

Example:

- Calculation of Total Possible Base Salary Increase Available to Teachers Under the Compensation Plan = $2000.
- Increase attributable to education and experience:
  - Increase attributable to education = $500
  - Increase attributable to experience = $500
  - The combined increase for education and experience is $1000, which is 50% of the total possible increase.
- Increase attributable to academic needs = $1,000, which is 50% of the total possible increase.

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NEW HIRE SALARIES

Must describe how salaries for newly hired teachers will be determined

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- Starting salaries for new hires must be bargained.
- Starting salaries for new hires do not have to be specific salary amounts and may include a range or a method of calculating.
- Failing to include a provision for determining starting salaries for newly hired teachers will result in a finding of noncompliance.

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	• The parties may bargain that the superintendent has the authority to set new hire salaries, but the authority must be limited to certain bargained parameters or ranges. • The base salary of a newly hired teacher who possesses the literacy endorsement must be different from the base salary of a teacher who otherwise has the same credentials but does not possess the literacy endorsement. **NOTE:** Because the initial salaries of newly hired teachers are typically bargained after those teachers have already been hired, it is common for new hire salaries to be adjusted to conform with the CBA for that time period. Such adjustments to new teacher salaries are not considered salary increases and are governed by the bargained new hire salary provision rather than the compensation plan's salary increase terms. **Examples** Compliant • The Superintendent has the discretion to set the new hire salary within the salary range, but the salary cannot exceed the salary of a veteran teacher with similar experience, educational attainment, and possession of the literacy endorsement. • Starting salaries for newly hired teachers are based on years of prior experience, educational attainment, and possession of the literacy endorsement as reflected on the New Hire Salary Schedule in Appendix B. Newly hired teachers who possess a literacy endorsement on the date of hire will receive a base salary that is $1,000 higher than a teacher who has similar credentials but does not possess the literacy endorsement. Not Compliant • The Superintendent has the discretion to determine the salary of a newly hired teacher based on the needs of the school corporation. (This is not compliant because there are no parameters or limitations on the amount of increase at the superintendent's discretion.)
STIPENDS	▪ A stipend is not an increase to the base salary and is a non-recurring payment. ▪ Stipends are not subject to the requirements of IC 20-28-9-1.5. This means stipends are not required to be based on a combination of factors and are not subject to the 50% restriction. ▪ **Stipends issued to a majority of teachers should be included in the compensation plan.** ▪ Stipends must be clearly labeled as such. If not identified as a stipend, it may be assumed to be a salary increase and found to be noncompliant. **Examples** • Clearly identified stipend: A teacher will receive a $3,000 stipend for teaching a dual credit course. The stipend will be paid at the end of the school year.

	• Not clearly identified and treated as subject to compensation plan requirements: A teacher will receive an additional $3,000 for teaching a dual credit course. • All teachers will receive a $2,000.00 stipend. Since this stipend will be given to the majority of the bargaining unit members, it should be included in the compensation plan. **TIP:** Examples of provisions for stipends to extend over a period of time: • "Teachers who satisfy the academic needs factor will receive a $1,000 stipend. No teacher shall be eligible to receive a stipend pursuant to the foregoing provision if they have received a total of $2,000 or more in stipends pursuant to this provision in the past two years." • "At the discretion of the Superintendent, a teacher within their first three years of full-time employment with the School Corporation may receive a one-time stipend of up to $1,000, not to exceed $3,000 lifetime pursuant to this provision." • "Teachers hired in the past three years will receive a bonus stipend of $1,000 pursuant to this section, not to exceed $3,000 over any three-year period."
WAGES	
Ancillary duties – wages and other compensation	▪ 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). ▪ The parties may bargain only the compensation for an ancillary duty. The 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 determines what constitutes an ancillary duty and how such duties will be assigned, but discussion of these topics with the exclusive representative is encouraged. o **NOTE:** The parties **may** bargain a limitation or condition on the **wage**, but not on the duty itself. ▪ 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. **Examples** Compliant ▪ Teachers will receive $25 per hour when assigned the ancillary duty of covering a class period for another teacher. ▪ A teacher will be granted 1.5 hours of release/comp time for each hour that the teacher covers a class period for another teacher.

	▪ Teachers will receive $75 when assigned a detention session for 10 or less students and $100 when assigned a detention session for 11 or more students. (Different payment amounts for different size groups is a condition on the wage, rather than a condition on the assignment, and this is compliant.) ▪ The School Corporation has determined that supervision of after school detention is a compensable ancillary duty. The parties agree that teachers assigned this duty will be compensated $75 for each detention session. <u>Not compliant</u> ▪ The parties have agreed that covering a class period for another teacher is an ancillary duty and that the school will not assign a teacher to cover except in an emergency situation. No teacher will be assigned to cover a class period of another teacher more than one time per semester. (Parties cannot bargain what constitutes an ancillary duty. Schools alone can define what ancillary duties may be required of teachers. "[E]xcept in an emergency situation" and "No…more than one time per semester" are impermissibly bargained conditions that interfere with the school's ability to assign the duty.) ▪ Evening detention shall be paid at a flat rate of $75 for 10 students or less. ("10 students or less" is an impermissibly bargained condition that interferes with the school's **ability to assign** a teacher to supervise detention – specifically, it limits assignment by group size.) o **NOTE:** By removing the "flat rate" reference and adding an additional pay rate for 11 or more students, a similar provision in the examples above is compliant, because what has been bargained there is a condition on the wage vs. a condition on the actual assignment. ▪ Upon mutual agreement, a teacher may be requested to supervise a class's instructional time during his/her preparation period. (This provision is noncompliant because the parties bargained to require "mutual agreement" of the teacher before the school could assign the teacher to serve as a substitute. The parties cannot bargain any limitations or restrictions on the school's ability to assign the duty.) ▪ If a teacher is asked to, and accepts, responsibility for completing [ancillary duty], the teacher will receive an additional five hours of pay per week. (This provision is noncompliant because it requires the teacher to accept the duty. The parties cannot bargain any limitations or restrictions on the school's ability to assign the duty.) **TIP**: When describing wages (or other compensation) for an ancillary duty, clearly identify the wage/release time as compensation for an ancillary duty. **TIP**: **Avoid language indicating that an ancillary duty assignment is voluntary or requires the agreement of the teacher.** If parties have bargained the wage only for those teachers who volunteer for an ancillary duty, be sure to indicate the wage for those who don't volunteer but are assigned, even if that wage is $0.
Extracurricular or co-curricular duties - wages	• The parties may bargain only the compensation for an extracurricular or a co-curricular duty and only for unit members (e.g., they cannot bargain

	compensation specific to "lay", "non-certified", or "administrative" (non-bargaining unit) staff who are hired for an ECA or CCA position). • The parties **cannot** bargain a specific extracurricular or co-curricular position, or any parameters, restrictions, or limitations on the number of positions, the parameters of the position or duty, or who is selected for the position.
Other permissible wage/salary items	• Wage payments may be in the form of an hourly wage or a set amount per activity or duty. • Parties must include all bargained and agreed upon items relating to salary and wages. **Examples** • Wage payment agreements • Dues deductions • Salary for extended contracts • Salary for supplemental service contracts[2] • General payroll deductions • Wage payment agreements are agreements pursuant to IC 20-26-5-32.2 between the parties regarding the frequency of salary payments where the frequency will be different than that required under Indiana wage payment laws.
SALARY AND WAGE RELATED FRINGE BENEFITS	
Any benefit, other than direct salary or compensation, received by the school employee from the school employer must be bargained	• Statutory examples of salary and wage related fringe benefits: ▪ Accident ▪ Sickness ▪ Health ▪ Dental ▪ Vision ▪ Life ▪ Disability ▪ Retirement benefits ▪ Paid time off as may be bargained under IC 20-28-9-11 • Other examples include, but are not limited to: ▪ Unpaid leave ▪ Wellness plans ▪ Section 125 plans ▪ Travel allowance ▪ Severance pay ▪ Expanded criminal history background checks[3]

[2] Indiana Code 20-28-6-7(c) provides that the superintendent shall determine the salary for a supplemental service (including summer school) contract. However, the superintendent may determine that the supplemental service salary will be bargained.

[3] Beginning July 1, 2017, "A school corporation, charter school, or nonpublic school may agree to pay the costs associated with obtaining an expanded criminal history background check for an employee." Indiana Code 20-26-5-10(i).

	TIP: Make sure that any payments for fringe benefits are clearly marked as stipends in the CBA. Examples include severance pay for years of service upon retirement, purchase of unused sick leave days, and payments to those who decline health plan coverage. The Compliance Office may assume payments not noted as stipends are base increases and noncompliant.

IMPERMISSIBLE ITEMS, PROVISIONS, AND SUBJECTS

Bargaining is limited to salaries, wages, and salary and wage related fringe benefits. The list of items, provisions, and subjects that cannot be bargained is lengthy. The following list of non-bargainable items, provisions, and subjects is not exhaustive and is derived from prior Compliance Reports and Recommendations. Including any of these items, provisions, or subjects in the CBA will generally result in a finding of noncompliance.

Item/provision/subject	Description – Examples - Tips
Rights or provisions for non-unit members	• The exclusive representative does not have authority to bargain any rights or provisions on behalf of individuals who are not bargaining unit members.
Rights of the exclusive representative president, designee, or members	• The parties may bargain leave time for the association president, designee, or members, but **cannot** bargain things like the right to visit schools, access to buildings, use of school email, access to mailboxes, etc. Bargaining is limited to leave time and other salary/wage related fringe benefits. • The parties **cannot** bargain preferences for unit members (e.g., right of first refusal for an ECA position).
Number of ECA/CCA positions	• The parties cannot bargain the number of or any limit on the number of ECA or CCA positions. See extracurricular/co-curricular duties in the Wages section above. • The parties cannot bargain to create or eliminate an ECA position. The school corporation determines which ECA positions are necessary, and the parties bargain the compensation for those positions/duties. **TIP**: If the parties do not bargain but wish to include the number of or limits on the number of ECA/CCA positions solely for informational or reference purposes, they must include a statement that the number of positions was not bargained, but is included for informational purposes only – e.g., “Any information in the ECA schedule beyond the name of the position and the salary/wage for the position was not bargained and is included for informational purposes only.” Failure to include this or a similar statement will result in a finding of noncompliance.
Limits on school corporation’s ability to rehire retired teachers	• The parties cannot bargain any restrictions on the school corporation’s ability to “rehire” a retired teacher (e.g., school can rehire a retired teacher only for shortage areas, only if no other candidates, only for one year, etc.). • The parties may only bargain salary, wages, and salary and wage related fringe benefits for rehired retired teachers.
Limits on school corporation’s assignment of regular teaching duties	• The parties cannot bargain any restrictions on the school corporation’s authority to manage and direct the work of teachers. IC 20-29-4-3(1).
What constitutes an ancillary duty and limits on the school’s assignment of an ancillary duty	• The parties **cannot** bargain what constitutes an ancillary duty or any parameters, restrictions, or limitations on the school’s assignment of an ancillary duty. See ancillary duties in the Wages section above (page 23).

The number of teacher contract or extended contract days or the use of contract days	• The parties cannot bargain: ▪ the number of regular teacher contract days ▪ the number of extended contract days ▪ which teachers will receive extended contracts ▪ how contract days will be used **TIP**: If the parties do not bargain but wish to include the number of regular or extended contract days solely for informational or reference purposes, they must include a statement that the number of days was not bargained, but is included for informational purposes only. Failure to include this statement will result in a finding of noncompliance. **NOTE:** The number of days may appear in a calculation **(**e.g., salary equals the per diem rate X a number of days, or the daily rate equals salary divided by the number of days).
Supplemental payments in excess of the compensation plan	• The parties cannot bargain supplemental payments under IC 20-28-9-1.5(a). Supplemental payments[4] are the discretionary payments the school corporation may make to any teacher **in excess of the salary specified in the school corporation's compensation plan**. • 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. Failure to include this statement will result in a finding of noncompliance. **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.
Miscellaneous provisions that resulted in a finding of noncompliance. These types of provisions are not bargainable.	• Restrictions on conversations between prospective retirees and school corporation officials regarding potential post-retirement employment • Terms related to scheduling faculty meetings or professional development • Provision of a certified substitute as a full-time aide to be assigned to the association president • Teacher participation in parent-teacher conferences • Required attendance at professional development (can bargain compensation for attendance, but can't bargain that attendance is required) • Preparation or planning time • The number of members on a committee or when the committees will meet • Distribution of the teacher appreciation grant award • Any component of the teacher evaluation plan or process • Teachers may request a private conference with the Superintendent • The source of funding for a given salary or wage, or how much a school must budget for a given salary or wage, <u>unless</u> it is a condition on the wage

[4] These supplemental payments are not the same as the compensation for a supplemental service contract pursuant to IC 20-28-6-7(c).

MOU bargained outside the timeline unless pursuant to a Board order or falls within one of the exceptions	Any MOU ratified by the parties outside the bargaining timeline is noncompliant unless one of the following exceptions applies: (1) Newly discovered information or an unanticipated event that was not known or available at the time the parties ratified the original CBA. This exception will be decided on a case-by-case basis by the compliance officer. (2) Non-rule policy guidance issued by the board addressing unanticipated circumstances impacting multiple bargaining parties and allowing parties to bargain and ratify a limited MOU outside of the bargaining timelines.
Provisions not permitted per IC 20-29-6-2	Any provisions that conflict with: ▪ any right or benefit established by federal or state law ▪ school employee rights as set forth in IC 20-29-4-1 and 20-29-4-2 ▪ school employer rights set forth in IC 20-29-4-3 ▪ restructuring options available as described in IC 20-29-6-2(a)(4) ▪ the school employer's ability to work with an education entity as provided in IC 20-29-6-2(a)(5)

MOUs

An MOU is an agreement ratified by the school employer and the exclusive representative that changes or modifies the CBA. Any MOU that changes or modifies the CBA must be submitted for compliance review. **In addition to the items listed below, the items, provisions, and subjects of an MOU are subject to the same requirements as the items, provisions, and subjects in a CBA as described above.**

Item	Description – Examples - Tips
MOU must be ratified, signed, and dated.	• At least one agent of each party must sign the MOU. For a school employer, this must usually be the school board president or secretary. See IC 20-26-4-8. **Examples** ▪ Compliant: "The MOU was ratified by both parties on February 5, 2027. Signed: *John Smith* Signed: *Alice Jones* " ▪ Compliant: "Signed: *John Smith* Date: 02/05/27 Signed: *Alice Jones* Date: 02/06/27" **TIP:** Sign and date the MOU at the time of ratification.
MOU must be submitted within ten (10) business days after ratification	• Within 10 business days of ratification, the ratified MOU (and written explanation) must be uploaded to Gateway (https://gateway.ifionline.org/) as a standalone PDF file in the **MOU Upload application**. Parties should no longer combine the collective bargaining agreement and MOU into one PDF before uploading through the CBA upload application. • Failing to submit the MOU within the timeline may result in a finding of noncompliance and a potential penalty of prior approval for subsequent CBAs or MOUs. • The MOU, like the CBA, must also be posted on the corporation's webpage within 14 business days of ratification. • In addition to submission to IEERB via Gateway upload, the ratified MOU may be submitted to IEERB by email to ratifiedcontracts@ieerb.in.gov within 10 business days of ratification. The other party to the CBA must be copied on the email submission. **TIP:** Upload the MOU to Gateway (https://gateway.ifionline.org/) immediately after the last signature is obtained. **NOTE:** The 2017 changes to the bargaining timeline have resulted in numerous MOUs regarding health insurance benefits that must be determined prior to the start of formal bargaining for a new collective bargaining agreement. Such MOUs are addressed in Non-rule Policy Document No. 2018-2 (available at https://in.gov/ieerb/files/NPD-2018-2.pdf) These MOUs must still be uploaded into Gateway within 10 business days of ratification.
Written statement of need for MOU	• When submitting an MOU, the parties must include a written explanation of the need for the MOU. • Because an MOU is not compliant unless it satisfies one of the exceptions (see section below), it is essential that the parties provide sufficient information explaining why the MOU is necessary.
If MOU is ratified outside of the	• An MOU ratified outside the bargaining timelines is not compliant **UNLESS** either of the following is applicable**:**

bargaining timelines, it must satisfy one of the exceptions for compliance	▪ The parties became aware of newly discovered information, or an unanticipated event occurred that was not known or available at the time the parties ratified the original CBA; or
	▪ Non-rule policy guidance issued by the board addressing unanticipated circumstances impacting multiple bargaining parties allowed the parties to bargain and ratify a limited MOU outside the bargaining timelines.
	TIPS
	▪ Correcting an error in a CBA is not considered "newly discovered information or an unanticipated event."
	▪ If an event is originally unanticipated, but likely to recur in the future, the parties may use an MOU to address the issue initially, but should address the issue in the next CBA. Multiple MOUs on the same event or issue do not satisfy the exception for an "unanticipated event."
	▪ At the parties' request, IEERB will review and "pre-approve" a proposed MOU.
	    ○ Parties seeking IEERB's review of a proposed MOU must send a request to compliance@ieerb.in.gov.
	    ○ The request must include an unsigned draft of the proposed MOU as well as a written explanation of why the MOU is necessary.
	    ○ The party sending the request must include their bargaining counterpart on the email, so that both the school employer and exclusive representative are included.
	    ○ IEERB will acknowledge receipt of proposed MOU review requests and will provide additional information at that time.
	EXAMPLES
	Pre-approved and compliant
	▪ Parties are notified on April 1 that health insurance premiums are going to increase effective September 1. Open enrollment for teachers is August 1 to August 31. The parties need to bargain how the increase will be apportioned between the school and the teachers in order for teachers to make an informed decision during open enrollment. Because formal bargaining does not begin until after open enrollment and the effective date of the insurance increase, the parties ratify an MOU for the 2026-27 school year.
	▪ Parties learn from their spring ADM count that there will be a significant decline in state tuition support for the following year. In an effort to offset the loss of revenue, the parties want to offer a retirement incentive for teachers to retire at the end of the current school year. They bargain the retirement incentive in May and ratify an MOU that expires the same date as the current CBA.
	Not pre-approved and not compliant
	▪ During the formal bargaining period, parties discovered a discrepancy in how credit for prior experience was calculated for teachers hired before the 2013-14 school year. They wanted to adjust the experience credit of the affected teachers (and the teacher's respective salary) to conform to the experience credit awarded to teachers hired since the 2013-14 school year, but could not reach agreement prior to the end of formal

	bargaining. The parties ratified the CBA without including the “adjustment” provision. Three months later, the parties propose an MOU to address the discrepancy adjustment and request that IEERB review their tentative MOU for approval before they ratify. IEERB does not approve the MOU because it does not satisfy the exception for newly discovered or unanticipated information at the time of bargaining. The parties were aware of this discrepancy at the time of bargaining, but did not include it in the CBA. Citing a lack of time to complete negotiation on the issue prior to ratifying the CBA as the reason for the MOU is not compliant.
MOU expiration	• Because an MOU modifies a corresponding CBA, it is effective only for the life of the CBA and expires when the CBA expires. • Except in the limited circumstances addressed in NPD 2018-2 regarding certain health insurance MOUs, an MOU must not include terms bargained for a subsequent contract period; nor should an MOU be used to amend an expired CBA during the status quo period per IC 20-29-6-16(b) (“Upon the expiration of the current contract that is in effect, except for teacher appreciation grant stipends and additions to base salary provided under IC 20-43-10-3.5, the school employer shall continue under the terms of the current contract that is in effect, with no increase or increment in salary, wages, or benefits for any bargaining unit employee until a new contract is executed.”) **TIP:** If you originally bargained a salary, wage, or benefit provision in an MOU, but agree to continue that provision when bargaining your subsequent CBA, you must incorporate the provision into the body of your new CBA rather than attaching the expired MOU to your new contract.

PENALTY FOR NONCOMPLIANCE

Indiana Code 20-29-6-6.1(f) provides that, if the Board finds that a collective bargaining agreement, including a compensation plan, is not compliant, it must issue an order that may: (1) require the parties to "cease and desist from all identified areas of noncompliance;" (2) prevent parties "from ratifying any subsequent collective bargaining agreements until the parties receive written approval from the board or the board's agent;" or (3) "require other action as deemed appropriate by the board."

Penalty	When the penalty is ordered and what it means
Cease and desist	• Will be ordered if there are any findings of noncompliance. • "Cease and desist" means that, for any finding of noncompliance, the parties must fix it in the next CBA – i.e., add a provision, remove a provision or change a provision to make it compliant. **TIP: Failure to correct a previous finding of noncompliance is a factor in the determination of compliance assessment conference or prior approval.**
Cease and desist with general recommendation to seek technical assistance	• This penalty is still cease and desist. • The recommendation to seek technical assistance is added when there has been repeated noncompliance – or when IEERB staff determine that a discussion of a particular issue is warranted, but the CBA otherwise does not warrant issuance of a Compliance Assessment Conference. • Because seeking technical assistance is a merely a recommendation at this penalty level, parties are encouraged – but not required – to participate.
Compliance assessment conference	• An order requiring a compliance assessment conference is based on the nature and seriousness of the noncompliance. • The Board looks at: ▪ the number of findings of noncompliance; ▪ the gravity or substance of the noncompliance; and ▪ the number of **repeat** findings of noncompliance. • A compliance assessment conference order requires that the parties participate in a joint meeting with IEERB staff to review the results of the most recent Compliance Report and Recommendation. **NOTE:** Parties may be ordered to engage in a compliance assessment conference in conjunction with an order of prior approval.
Prior approval	• An order of prior approval is based on the nature and seriousness of the noncompliance. • The Board looks at: ▪ the number of findings of noncompliance; ▪ the gravity or substance of the noncompliance; and ▪ the number of **repeat** findings of noncompliance. • Multiple repeat findings of noncompliance are more likely to result in a penalty of prior approval because the parties have been given a year or more to correct the noncompliance but failed to do so. • "Prior approval" means that the parties must submit their tentative/proposed agreement to the compliance officer to review and approve before they can ratify the agreement.

	• Before the parties can ratify their tentative/proposed agreement, they must have received written approval from the compliance officer. **TIP:** If parties receive a prior approval penalty on their previous CBA, they are encouraged to submit their subsequent tentative/proposed agreement for the compliance officer's review as early as possible. If the review requires the parties to make any changes before written approval is given, early submission allows the parties to make those changes and receive approval within the bargaining timelines.