



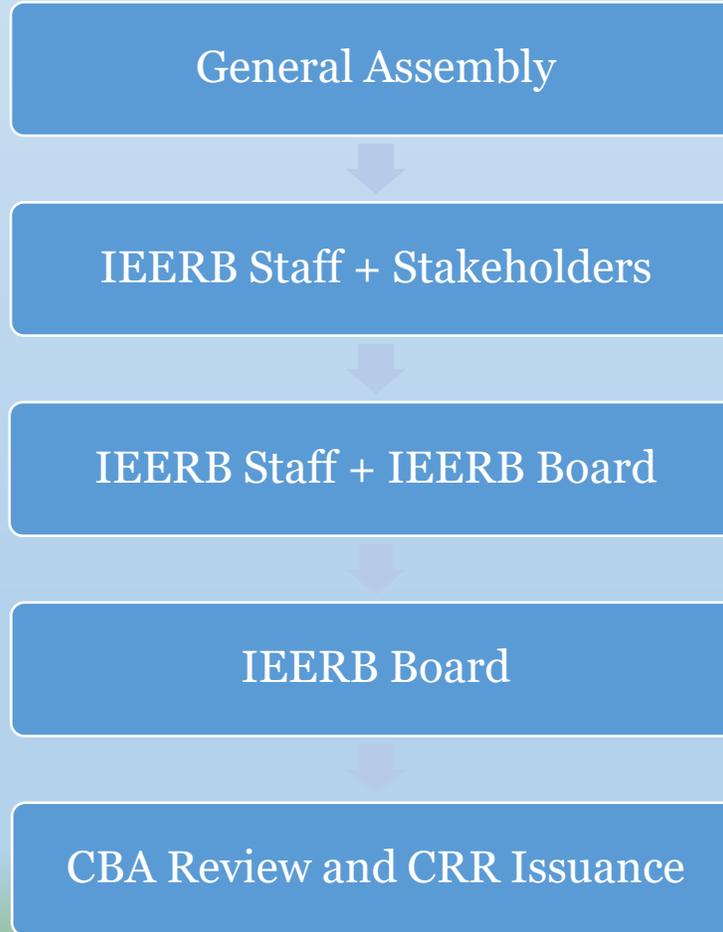
CBA Compliance

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The Compliance Framework





The 2019 Legislative Session

Senate Enrolled Act 606

Ed/Exp Cap
Change

Salary
Adjustments



Senate Enrolled Act 606

- **Cap on increases for Education /Experience is now 50%**
 - Increased from 33.33%
 - Easier math
 - Helps parties who forget to weigh combined factor increases
 - Helps parties previously found NC for exceeding 33.33%
- **Still look at total possible salary increase to determine whether 50% cap has been exceeded**



Senate Enrolled Act 606

- **Differentiated increases to adjust current teacher salary “in comparison to starting base salaries of new teachers.”**
 - **Factor attribution still required**
 - **Exempt from the 50% cap on Ed/Exp**
 - **Final interpretation subject to IEERB Board determination**



SEA 606 Salary Adjustment

- Teachers currently below the new teacher minimum may receive an additional increase less than or equal to the increase in the new teacher minimum
- Example:
 - Prev. min. = \$39k | New min. = \$40k | Increase in min. = \$1k
 - Teacher making \$39,500 prior to current year increases receives a SEA 606 salary adjustment of \$1,000, attributable to academic needs factor (defined as salary), in addition to other increases under the comp. plan.
- Narrow view, but more expansive view possible
- Look for IEERB guidance this fall



SEA 606 Salary Adjustments

- **Make sure factor attribution matches increase distribution**
 - For additional flexibility, use academic needs factor
- **Signposting requirement likely**
- **Final interpretation to be decided by the IEERB Board**
- **Check the 2019 Compliance Rubric**
- **Ask questions**



2017-2019 Two-Year Compliance Reports

- **115 CRRs Issued**
 - 27 Compliant
 - 85 Not Compliant, Cease & Desist Only
 - 3 Not Compliant, Prior Approval Issued
- **Top issues of noncompliance:**
 - Salary Increase Differential
 - Non-Bargainable Subjects
 - Salary Range
 - 33% Cap



2018-2019 One-Year Compliance Reports

- **187 CRRs Issued**
 - 82 Compliant
 - 105 Not Compliant, Cease & Desist Only
 - No Prior Approval Issued
- **Top issues of noncompliance:**
 - Differential
 - Non-Bargainable Subjects
 - 33% Cap
 - Redistribution



Bargaining Unit Description

- **Must match most recent IEERB Order in effect on date of CBA ratification**
- **Unit changes are not effective until certified by IEERB in an Order**
- **Ratifying a CBA with an amended unit description after the notice period but before the order is issued results in a FNC**
- **IEERB bargaining unit orders available on *NEWLY UPGRADED* IEERB Search.**
 - <https://ieerbsearch.ieerb.in.gov>



Bargaining Unit Description

- **Tips:**

- CBA should match Order exactly
- Don't wait until November to make unit changes (contact us for timing suggestions if you expect a time crunch)
- Check your Order on IEERB Search and make sure it says what you think it says
 - You're responsible for letting IEERB know of any mistakes in the Order



Salary Range

- **Single statement**
- **ANNUAL salary**
- **All full-time returning unit members**
- **Before any salary increases under the current contract**
- **Excluding TRF**



Eligibility Criteria vs. Factors

- **Eligibility is the gatekeeper of the compensation plan**
- **Same eligibility requirements for ALL TEACHERS**
- **Statutory eligibility requirement is “not rated ineffective or improvement necessary”**
 - This means that those rated effective, highly effective, or not rated can be eligible by statute
- **Exception to statutory eligibility requirement for teachers in the first 2 years of instructing students (NEW CITATION)**
 - This is an eligibility exception, but does not mean that such teachers satisfy the evaluation factor, if used



Eligibility vs. Factors

- If a teacher satisfies the compensation plan's eligibility criteria, then we look to factors to see if they've earned an increase
- Factors are the specific requirements that teachers must satisfy to actually earn an increase
 - A teacher might be eligible for increases, but not satisfy a factor to receive an increase
 - Ineligible teachers can't satisfy any factors, whether or not they meet the requirements of the factors
- By the time you look at whether a teacher satisfies a factor, they must already have been determined eligible
- Parties are not permitted to specify separate eligibility criteria for individual factors, **ONLY** for the compensation plan as a whole



Factors

- **Factors come from statute (IC 20-28-9-1.5):**
 - **Experience:** Number of years of a teacher's experience
 - **Education:** Possession of add'l content area degrees or credit hours beyond requirements for employment
 - **Evaluation:** Results of an evaluation
 - **Instructional Leadership:** Assignment of instructional leadership roles, including the responsibility for conducting evaluations
 - **Academic Needs:** The academic needs of students in the school corp.



Factors: Definition & Distribution

- **Increases should be distributed to teachers who satisfy the factors as they are defined**
- **Many 18-19 CBAs described increases attributable to a factor which were distributed using different or additional criteria**
 - **Example: Factor = Experience (defined as working 120 days in the prior year), but increase distributed to teachers making less than \$45,000**
 - **Example: Factor = Experience (defined as working 120 days in the prior year), but teachers receive different amounts of increase based on a combination of salary level and educational attainment**
- **If a teacher satisfies the factor as defined, then they should receive the increase for doing so**
- **Many of these issues also resulted in a noncompliant differential (discussed later)**



Redistribution Plan

- **All CPs must include a redistribution plan, unless it's clear that one is not needed**
 - Note: Simply saying that a redistribution plan is not needed is insufficient
- **Examples of CPs that don't need a redistribution plan:**
 - No base salary increases bargained
 - All Increases in CP based on a "pool" of money divided by the number of points/units earned by ELIGIBLE teachers
 - No teachers were rated ineffective or improvement necessary in the prior year, and the CP includes a statement to that effect
- **Required components of RDP:**
 - To all teachers rated effective or highly effective
 - In current contract year
 - **METHOD:** as a stipend or base increase



Salary Increase Differentials

- **Occur when the dollar and percentage amount that one teacher receives is different than another teacher who satisfies the same factor or sub-factor**
- **Compliant Differentials:**
 - **Based on subfactors logically related to the factor**
 - **Based on the Academic Needs factor**
 - **Attributable to a factor used to “reduce the gap”**
 - **NEW salary adjustment described in SEA 606**



New Hire Salaries

- **Parties MUST bargain new hire salaries and must specify the parameters for those salaries**
- **Ways to meet this requirement:**
 - **New hire salary chart along with a description of how teachers are placed**
 - **Defined new hire salary range along with description of how individual salary levels within the range are determined (can be based on superintendent discretion)**
- **Deviations from the specified range or chart are permitted, but a bargained parameter must still be applicable**
 - **Compliant: Superintendent discretion to offer additional \$5,000 to teacher hired in hard to fill position**
 - **Not compliant: Superintendent discretion to exceed the range for teacher hired in hard to fill position**



Comp Plan Example

- **Range:**
 - \$35,000 - \$67,000 not including current year increases or TRF contributions
- **Eligibility:**
 - Teacher rated ineffective or improvement necessary in prior year not eligible for any salary increase and remains at their prior year salary
- **Factors:**
 - Evaluation – teacher rated effective or highly effective in prior year
 - Education – teacher possesses master’s in content area as defined by DOE



Comp Plan Example (cont'd)

- **Distribution:**
 - Evaluation factor = \$1,000
 - Education factor = \$1,000
 - (Education is 50% of the maximum available salary increase)
- **Redistribution:**
 - Funds allocated for teachers rated ineffective or improvement necessary will be equally redistributed to all teachers rated effective or highly effective as a stipend paid at the end of the school year.
- **New Hires**
 - Newly hired teachers will be paid a salary commensurate to that of a current teacher with the same education and experience.



Undescribed transition to new salary schedule

- **This year's salary schedule includes \$500 across-the-board increase from last year's salary schedule for every cell**
- **Compensation plan only describes advancement on the current salary schedule**
- **Result:**
 - **FNC for increase not based on a factor**
 - **Amount of transition increase included in the 33% (now 50%) calculation**



No Increases Bargained

- **Must include a statement that the parties have bargained no increases**
- **Compliant examples:**
 - The parties have bargained that there will be no salary increases in 2018-19
 - The amount of money allocated for salary increases under the compensation plan for 2018-19 is \$0
- **Including a compensation plan that only describes stipends may not be enough. Best to go ahead and say “no increases.”**
- **Consider removing language that describes increases when there are no increases**



Ancillary Duties & ECAs

- **Only bargain the wages**
- **Do not bargain assignment of the duties, leave that to policy**
 - **Examples of assignment:**
 - Covering another teachers class during prep period is voluntary
 - Open ECA positions will be posted on the bulletin board and filled by the teacher with the most seniority
- **Do not bargain limitations on the duty (cf. limitations on the wage)**
 - Not compliant: Supervising Detention (no more than 10 students) = \$20/hr.
 - Compliant: Supervising Detention (10 students) = \$20/hr.; (11 or more) = \$30/hr.
- **Do not bargain the number of positions, or even whether there will be any positions at all**
- **NOTE: Ancillary duty issues currently on judicial review**



MOUs

- **Amend or supplement the CBA**
- **Ratification outside bargaining period ONLY if:**
 - **New info / unanticipated event not known at CBA ratification; or**
 - **IEERB issued nonrule policy guidance re: unanticipated circumstances impacting multiple parties**
- **Include written explanation of need for MOU**
- **Send to IEERB within 10 business days of ratification**
- **TIP: Ask IEERB to “pre-approve” a proposed MOU**



A note about dates

- **CBA's include numerous date references -- double check to make sure you've included them, updated them, and eliminated any mismatches**
- **Frequent mistakes in 18-19 CBA's:**
 - **“This CBA was ratified by the parties on September __, 2018.”**
 - **“This agreement is effective July 1, 2017.”**
 - **Cover: “(July 1, 2018 – June 30, 2019)” / Signature Page: “Effective August 15”**
 - **“The parties have bargained an attendance stipend for the 17-18 school year.”**



Final Thoughts

- **Review your CRR 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 informational purposes? Be sure to say that.**
- **Beware of old language and remove if possible**
- **Check dates and internal citations for accuracy**
- **Keep it simple**



Questions About Language?

- Look to IEERB guidance and model comp plans for examples
- Ask IEERB's Executive Director, Sarah Cudahy, to pre-review your proposed language
 - scudahy@ieerb.in.gov
- We are here to help -- If you have questions, ask them
 - Send an email to Questions@ieerb.in.gov