



INDIANA EDUCATION EMPLOYMENT RELATIONS BOARD

143 West Market Street, Suite 400

Indianapolis, IN 46204

Telephone: (317) 233-6620

Fax: (317) 233-6632

<http://www.in.gov/ieerb>

Guide to S.E.A. 390

Public Hearing and Public Meetings

The Indiana Education Employment Relations Board is a neutral agency that oversees relations between public school teachers and the schools they serve. IEERB staff has compiled the following information on [Senate Enrolled Act 390](#), 2019 Ind. Legis. Serv. P.L. 274-2019, as guidance only. **IEERB cannot provide legal advice; nor does this guidance bind IEERB in any way.** This guidance is not intended to take the place of careful review of S.E.A. 390, or as a substitute for legal advice. Questions may be sent to Questions@ieerb.in.gov.

I. Introduction

In 2019, [S.E.A. 390](#) amended the collective bargaining process to require the following:

- That the parties hold a public hearing and take public testimony regarding teacher compensation before starting private, formal negotiations.
- That the school employer hold a public meeting 72 hours prior to its ratification meeting to discuss the terms of the publicly available tentative collective bargaining agreement (CBA).
- That public comment be taken at the school employer's ratification meeting.

The timeline for formal collective bargaining did not change – it starts September 15 and ends November 15. If the parties have not reached an agreement by November 15, IEERB is statutorily required to declare an impasse. Therefore, careful planning will be necessary to ensure that the public hearing and public meetings are held within the time frames required by law.

Much of S.E.A. 390 overlaps with the requirements of the Open Door Law (ODL) found in [Ind. Code § 5-14-1.5](#). The Indiana Public Access Counselor (PAC) provides guidance on the requirements of the ODL on its [website](#), and has provided an in-depth [Handbook on Indiana's Public Access Laws](#).

II. Public Hearing

The school employer and the exclusive representative may not formally bargain in private until the parties have held a public hearing and allowed public testimony regarding teacher compensation.

- **Date:**
 - The public hearing should not take place prior to the expiration of the current CBA.
 - The hearing may take place before, on, or after September 15.
 - However, no bargaining can occur on or after September 15 without holding a hearing.
- **Place:** The public hearing should be held in a room large enough to accommodate the number of attendees that the parties reasonably expect to attend.
- **Hosts:** One representative from both the school employer and the exclusive representative must host the public hearing. The governing body of the school employer is not required to host the public hearing; however, the parties should have a mechanism to provide the public testimony to the school employer's governing body.
- **During the meeting:** At the public hearing, the parties should begin the meeting with an opening statement explaining the purpose and procedure of the meeting. The parties must then take public testimony to discuss matters relating to teacher compensation and collective bargaining in the school. The school employer and/or the exclusive representative do not need to comment or answer questions. The public testimony can be written or oral. The parties should arrange to preserve the testimony to provide to the school employer.
- **Notice:** Written notice must be provided to the public. IEERB recommends at least the notice required by the [Open Door Law](#) be provided. Sample notice below.
- **2 year-CBAs:** Parties that do not open a two-year contract for bargaining in the second year of the budget biennium do not need to hold a public hearing in the second year of the contract.
- **Public testimony:** The parties must allow public testimony. IEERB strongly encourages the parties to develop a policy to outline the procedures of public testimony.

III. Public Meeting to Discuss the Tentative Agreement (TA Meeting)

After the parties have reached a tentative agreement, the school employer must hold a public meeting to discuss the tentative agreement (hereinafter "TA meeting").

- **Date:** This public meeting cannot take place until the parties have a TA.
- **Place:** The TA meeting should be held in a room large enough to accommodate the number of attendees that the parties reasonably expect to attend.
- **Hosts:** The governing body of the school employer.

- **During the meeting:** At the TA meeting, the governing body of the school employer must discuss the terms of the TA.
- **Notice:** 72 (calendar) hours' notice and the TA must be posted on the school employer's website. The school employer must also provide notice consistent with the [Open Door Law](#). Sample notice below.
- **2 year-CBAs:** Parties that do not open a two-year contract for bargaining in the second year of the budget biennium do not need to hold a TA meeting.

IV. Ratification Meeting

The school employer's ratification meeting of a teacher CBA must be held at least 72 (calendar) hours after the TA meeting and must include public comment.

- **Date:** The school employer's ratification meeting cannot take place until 72 (calendar) hours after the TA meeting.
- **Place:** The ratification meeting should be held in a room large enough to accommodate the number of attendees that the parties reasonably expect to attend.
- **Hosts:** The governing body of the school employer.
- **During the meeting:** The governing body of the school employer must take public comment about the tentative CBA before ratification. IEERB strongly encourages the parties to develop a policy to outline the procedures of public comment.
- **Notice:** The school employer must provide notice consistent with the [Open Door Law](#). Sample notice below. IEERB also recommends that the school employer provides 72 (calendar) hours' notice on the school employer's website.
- **2 year-CBAs:** Parties that do not open a two-year contract for bargaining in the second year of the budget biennium do not need to hold a ratification meeting.

V. Non Compliance

Not complying with these new requirements could result in a complaint filed with the PAC or IEERB. If a complaint is filed with both IEERB and the PAC, IEERB may stay its case until the PAC issues its advisory opinion.

Anyone can file a complaint with the PAC for failing to meet the requirements for a public meeting under the [ODL](#). Guidance on how to file a complaint with the [ODL](#) can be found at the website for the PAC, <https://www.in.gov/pac/>.

A complaint with IEERB can only be filed by a school employer or a school employee who believes that the employer or employee is aggrieved by an unfair labor practice. Guidance on unfair labor practices and how to file a complaint can be found on the website for IEERB, <https://www.in.gov/ieerb/2329.htm>.

FAQs

- What about holidays under ODL?
 - ODL lists the holidays under which notice does not count toward the 48 business hours' notice for purposes of the TA and ratification meetings. November 5 and 11, 2019, are holidays under ODL during formal bargaining in which many school corporations still hold school.
- Do I have to take public testimony or comment at the public meeting?
 - No, unless otherwise required by school board policy. However, the school employer may take public testimony or comment at the public meeting.
- Who decides on the time and place of the public hearing?
 - The exclusive representative and the school employer jointly determine the time and place of the public hearing.
- What is the exclusive representative's involvement in the public meeting and the ratification meeting?
 - The exclusive representative may be present at these meetings, but is not a host. The exclusive representative will hold its own ratification meeting.
- Do you have a sample of the notice I have to provide?
 - Yes, see below.
- What happens if we do not accomplish these steps?
 - Depending on which steps are not accomplished, there could be a complaint filed with the Public Access Counselor, in court, or with IEERB.
- What is the school board action at the public meeting?
 - Discussion of the TA.
- Can these public meetings be part of regular board meetings?
 - Yes, as long as the additional requirements (e.g., public comment) occur.
- Can the school employer ratify a CBA before taking public comment?
 - No.
- Any best practices you recommend?
 - Schedule meetings early and develop a policy for these meetings.

- What if we had a TA but ratification failed?
 - Then the parties must go back to the table. Once a TA is reached, the parties must hold another TA meeting and another ratification meeting with public comment.
- What if the parties are in mediation?
 - The parties must still hold TA and ratification meetings.
- What if the school employer or exclusive representative prevent a teacher from testifying at the public hearing?
 - The teacher can file a complaint for unfair practices.

Sample Notices

Public Hearing Notice

SEA 390 Public Hearing of the Best Teacher Union and Best School Corporation
September 20, 2019
7:00 p.m.
Board Room, 123 Best School Corporation Way, Bestpolis, Indiana

Public testimony will be taken at this hearing pursuant to Indiana Code 20-29-6-1(a) regarding teacher compensation and collective bargaining.

Public Meeting Notice – TA Meeting

SEA 390 TA Meeting of the Best School Corporation
October 15, 2019
7:00 p.m.
Board Room, 123 Best School Corporation Way, Bestpolis, Indiana

The School Board will meet pursuant to Indiana Code 20-29-6-19(a) to discuss the terms of the tentative agreement of the teacher collective bargaining agreement, which is posted at www.bestschoolcorp.org/teacherbargaining/tentativeagreement.

Public Meeting Notice – Ratification

SEA 390 Public Meeting of the Best School Corporation
November 1, 2019
7:00 p.m.
Board Room, 123 Best School Corporation Way, Bestpolis, Indiana

Public comment will be taken at this meeting pursuant to Indiana Code 20-29-6-19(c) regarding the ratification of the tentative teacher collective bargaining agreement, which is posted at www.bestschoolcorp.org/teacherbargaining/tentativeagreement.

SEA 390 Checklist

Public Hearing:

- Before first meeting of formal collective bargaining
- Hosted by a representative of the school employer and the exclusive representative
- Room reserved large enough to accommodate the number of expected attendees
- Public testimony must be allowed
- Notice provided to public. Recommended: notice pursuant to [Open Door Law](#); Remember: November 5, 2019 and November 11, 2019 are holidays that do not count toward ODL notice.
- Method for preserving public testimony to provide to school employer's governing body (recommended: record the hearing)
- Rec. Policy created that outlines procedures for taking public testimony

Tentative Agreement Meeting:

- Tentative agreement reached
- Tentative agreement posted on the school's website 72 hours before meeting
- Meeting hosted by the school board
- School board discusses the tentative agreement
- Notice must be made pursuant to [Open Door Law](#). In addition, notice and the TA must be posted at least 72 (calendar) hours and 48 business hours before the meeting. Remember: November 5, 2019 and November 11, 2019, are holidays that do not count toward ODL notice.
- Room reserved large enough to accommodate the number of expected attendees.

Ratification Meeting:

- Held at least 72 hours after the TA Meeting
- Hosted by the School Board
- Public comment on tentative agreement must be allowed
- Policy created that outlines procedures for taking public comment
- Notice made pursuant to [Open Door Law](#). Remember: November 5, 2019 and November 11, 2019 are holidays that do not count toward ODL notice. Recommended: 72 calendar hours' notice
- Room reserved large enough to accommodate the number of expected attendees.

To Prevent/End Impasse:

- Ratified CBA uploaded on Gateway