

IC 20-29-6

Chapter 6. Collective Bargaining

IC 20-29-6-1

Duty to bargain collectively and discuss

Sec. 1. School employers and school employees shall:

- (1) have the obligation and the right to bargain collectively the items set forth in section 4 of this chapter;
- (2) have the right and obligation to discuss any item set forth in section 7 of this chapter; and
- (3) enter into a contract embodying any of the matters listed in section 4 of this chapter on which they have bargained collectively.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.11.

IC 20-29-6-2

Contracts

Sec. 2. (a) Any contract may not include provisions that conflict with:

- (1) any right or benefit established by federal or state law;
- (2) school employee rights set forth in IC 20-29-4-1 and IC 20-29-4-2;
- (3) school employer rights set forth in IC 20-29-4-3;
- (4) restructuring options available to a school employer under federal or state statutes, regulations, or rules because of the failure of the school corporation or a school to meet federal or state accountability standards;
- (5) a school employer's ability to contract, partner, or operate jointly with an educational entity that provides postsecondary credits to students of the school employer or dual credits from the school employer and the educational entity; or
- (6) section 4.5(a) of this chapter.

(b) A subject that is set forth in section 4.5(a) of this chapter may not be included in any contract after June 30, 2011.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.12.

IC 20-29-6-3

Unlawful deficit financing

Sec. 3. (a) It is unlawful for a school employer to enter into any agreement that would place the employer in a position of deficit financing due to a reduction in the employer's actual general fund revenue or an increase in the employer's expenditures when the expenditures exceed the employer's current year actual general fund revenue.

(b) A contract that provides for deficit financing is void to that extent, and an individual teacher's contract executed under the contract is void to that extent.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.13.

IC 20-29-6-4

Subjects of bargaining

Sec. 4. (a) A school employer shall bargain collectively with the exclusive representative on the following:

- (1) Salary.
- (2) Wages.
- (3) Salary and wage related fringe benefits, including accident, sickness, health, dental, vision, life, disability, retirement benefits, and paid time off as permitted to be bargained under IC 20-28-9-11.

(b) Salary and wages include the amounts of pay increases available to employees under the compensation plan adopted under IC 20-28-9-1.5, but do not include the teacher evaluation procedures and criteria, any components of the teacher evaluation plan, rubric, or tool, or any performance stipend or addition to base salary based on a performance stipend to an individual teacher under IC 20-43-10-3.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.14; P.L.286-2013, SEC.91; P.L.213-2015, SEC.186.

IC 20-29-6-4.5

Prohibited subjects of collective bargaining

Sec. 4.5. (a) For a contract entered into after June 30, 2011, a school employer may not bargain collectively with the exclusive representative on the following:

- (1) The school calendar.
- (2) Teacher dismissal procedures and criteria.
- (3) Restructuring options available to a school employer under federal or state statutes, regulations, or rules because of the failure of the school corporation or a school to meet federal or state accountability standards.
- (4) The ability of a school employer to contract, partner, or operate jointly with an educational entity that provides postsecondary credits to students of the school employer or dual credits from the school employer and the educational entity.
- (5) Any subject not expressly listed in section 4 of this chapter.

(b) For a contract entered into after January 1, 2015, for a school year beginning after June 30, 2015, a school employer may not bargain collectively with the exclusive representative for the following:

- (1) A matter described in subsection (a).
- (2) A matter that another statute specifies is not subject to collective bargaining, including IC 20-28-9-1.5 and IC 20-43-10-3.

(c) A subject set forth in subsection (a) or (b) that may not be bargained collectively may not be included in an agreement entered into under this article.

As added by P.L.48-2011, SEC.15. Amended by P.L.213-2015,

SEC.187.

IC 20-29-6-4.7

Bargaining on teacher evaluation procedures and criteria prohibited; duration of contract

Sec. 4.7. (a) A school employer may not bargain collectively with the exclusive representative on teacher evaluation procedures and criteria after this section has been enacted into law.

(b) A contract entered into between a school employer and an exclusive representative after this section has been enacted into law may not extend past the end of a state budget biennium.

As added by P.L.48-2011, SEC.16.

IC 20-29-6-5

Grievance procedure

Sec. 5. A contract entered into under this chapter may contain a grievance procedure.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.17.

IC 20-29-6-6

Limitations on obligation to bargain collectively

Sec. 6. The obligation to bargain collectively does not include the final approval of a contract concerning any items. Agreements reached through collective bargaining are binding as a contract only if ratified by the governing body of the school corporation and the exclusive representative. The obligation to bargain collectively does not require the school employer or the exclusive representative to agree to a proposal of the other or to make a concession to the other.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-6.1

Review of collective bargaining agreement

Sec. 6.1. (a) After ratification of a contract under section 6 of this chapter, a school employer shall submit the ratified collective bargaining agreement, including the compensation model developed under IC 20-28-9-1.5, to the board.

(b) The board shall appoint a staff member or an ad hoc panel member to review each submitted collective bargaining agreement and to make a written recommendation concerning the collective bargaining agreement's compliance with this chapter, including a penalty for any noncompliance. The review must be completed before March 30 of the year in which the current collective bargaining agreement expires.

(c) Not later than fifteen (15) days after a recommendation has been made under subsection (b), one (1) or both parties to a collective bargaining agreement may appeal to the board, in writing, the decision made in the recommendation. If the board does not receive an appeal not later than fifteen (15) days after issuing a

recommendation, the recommendation becomes the final order of the board.

(d) If the board receives a timely appeal, the board may make a decision on the recommendation with or without oral argument. The board may request that the parties submit briefs. The board must issue a ruling on the appeal not later than thirty (30) days after the last of the following occurs:

- (1) The appeal is received.
- (2) Briefs are received.
- (3) Oral arguments are held.

(e) IC 4-21.5 does not apply to a review under subsection (b) or (d).

(f) If, following the review of a collective bargaining agreement, the board finds the collective bargaining agreement does not comply with this chapter, the board shall issue an order that may include one (1) or more of the following items:

- (1) Ordering the parties to cease and desist from all identified areas of noncompliance.
- (2) Preventing the parties from ratifying any subsequent collective bargaining agreements until the parties receive written approval from the board or the board's agent.
- (3) Requiring other action as deemed appropriate by the board as authorized by state law.

(g) The board may send the board's compliance findings to other state agencies as necessary.

(h) After a school employer has submitted a collective bargaining agreement under subsection (a), the school employer and an exclusive representative may not enter into a new collective bargaining agreement containing the noncompliant provision until the school employer has received either:

- (1) the board's order regarding the compliance of the submitted collective bargaining agreement with this chapter; or
- (2) other written approval from the board or an agent of the board.

(i) If any provision of the collective bargaining agreement is found not to be compliant with this chapter, the provision that is found to be noncompliant with this chapter shall not affect other provisions of the collective bargaining agreement that can be given effect without the noncompliant provision, and to this end the provisions of collective bargaining agreement are severable.

(j) The board:

- (1) shall adopt rules under IC 4-22; and
- (2) may adopt emergency rules in the manner provided under IC 4-22-2-37.1;

as necessary to implement this section.

As added by P.L.213-2015, SEC.188.

IC 20-29-6-7

Subjects of discussion

Sec. 7. A school employer shall discuss with the exclusive representative of certificated employees the following items:

- (1) Curriculum development and revision.
- (2) Selection of curricular materials.
- (3) Teaching methods.
- (4) Hiring, evaluation, promotion, demotion, transfer, assignment, and retention of certificated employees.
- (5) Student discipline.
- (6) Expulsion or supervision of students.
- (7) Pupil/teacher ratio.
- (8) Class size or budget appropriations.
- (9) Safety issues for students and employees in the workplace, except those items required to be kept confidential by state or federal law.
- (10) Hours.
- (11) Funding for a plan for a remediation program for any subset of students enrolled in kindergarten through grade 12.
- (12) The following nonbargainable items under IC 20-43-10-3:
 - (A) Performance grants.
 - (B) Individual performance stipends to teachers.
 - (C) Additions to base salary based on performance stipends.
- (13) The pre-evaluation planning session required under IC 20-28-11.5-4.
- (14) The superintendent's report to the governing body concerning staff performance evaluations required under IC 20-28-11.5-9.
- (15) A career pathways and mentorship plan established under IC 20-20-42.2.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.18; P.L.286-2013, SEC.92; P.L.213-2015, SEC.189; P.L.106-2016, SEC.11.

IC 20-29-6-8

Contract, agreement, or concession not required

Sec. 8. The obligation to discuss does not require either party to enter into a contract, agree to a proposal, or make a concession related to the items listed in section 7 of this chapter. A failure to reach an agreement on a matter of discussion does not allow the use of any part of the impasse procedure under IC 20-29-8.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.19.

IC 20-29-6-9

Discussions outside obligation to bargain collectively

Sec. 9. The obligation to bargain collectively or discuss a matter does not prevent:

- (1) a school employee from petitioning the school employer, governing body, or superintendent for a redress of the

employee's grievances, either individually or through the exclusive representative; or

(2) the school employer or superintendent from conferring with a citizen, taxpayer, student, school employee, or other person considering the operation of the schools and the school corporation.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-10

Recommendations by superintendent

Sec. 10. Nothing shall prevent a superintendent or the superintendent's designee from making recommendations to the school employer.

As added by P.L.1-2005, SEC.13.

IC 20-29-6-11

Repealed

(As added by P.L.1-2005, SEC.13. Repealed by P.L.48-2011, SEC.39; P.L.90-2011, SEC.50.)

IC 20-29-6-12

Commencement of collective bargaining

Sec. 12. Formal collective bargaining between a school corporation and the exclusive representative shall not begin before:

- (1) August 1 in the first year of the state budget biennium; or
- (2) August 1 in the second year of the state budget biennium if the parties agreed to a one (1) year contract during the first year of the state budget biennium or the contract provides for renegotiating certain financial items the second year of a two (2) year contract.

Informal negotiations may be held before August 1.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.20; P.L.229-2011, SEC.178.

IC 20-29-6-12.5

Certification of estimated available revenue

Sec. 12.5. (a) Before August 1 of the first year of the state budget biennium, the department shall provide the parties with an estimate of the general fund revenue available for bargaining in the school corporation from the school funding formula.

(b) Within thirty (30) days after the date of the fall count of ADM of the school year in the first year of the state budget biennium, the department shall provide the parties with a certification of estimated general fund revenue available for bargaining from the school funding formula. A school employer that has passed a general fund operating referendum under IC 20-46-1 must have that amount certified by the department of local government finance. The school corporation must obtain the certification before the conclusion of

bargaining. These certifications must be the basis for determinations throughout impasse proceedings under this chapter.

As added by P.L.48-2011, SEC.21. Amended by P.L.229-2011, SEC.179; P.L.205-2013, SEC.254; P.L.213-2015, SEC.190.

IC 20-29-6-13

Appointment of mediator

Sec. 13. (a) If, at any time after at least sixty (60) days following the beginning of formal bargaining collectively between the parties, an impasse is declared, the board shall appoint a mediator from the board's staff or an ad hoc panel.

(b) The mediator shall begin mediation within fifteen (15) days after the board receives notice of impasse.

(c) The mediation must consist of not more than three (3) mediation sessions and must result in one (1) of the following:

(1) An agreement between the parties on the items permitted to be bargained under section 4 of this chapter.

(2) Each party's last best offer, including fiscal rationale, related to items permitted to be bargained under section 4 of this chapter.

(d) Costs for the mediator shall be borne equally by the parties.

(e) Mediation shall be completed within thirty (30) days.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.22; P.L.229-2011, SEC.180; P.L.6-2012, SEC.139.

IC 20-29-6-14

Repealed

(As added by P.L.1-2005, SEC.13. Repealed by P.L.48-2011, SEC.39.)

IC 20-29-6-15

Repealed

(As added by P.L.1-2005, SEC.13. Repealed by P.L.48-2011, SEC.39.)

IC 20-29-6-15.1

Initiation of factfinding

Sec. 15.1. (a) If an agreement has not been reached on the items permitted to be bargained collectively under section 4 of this chapter, within fifteen (15) days after mediation under section 13 of this chapter has ended, the board shall initiate factfinding.

(b) Factfinding must culminate in the factfinder imposing contract terms on the parties. The factfinder must select one (1) party's last best offer as the contract terms. The factfinder's order must be restricted to only those items permitted to be bargained and included in the collective bargaining agreement under section 4 of this chapter and must not put the employer in a position of deficit financing (as defined in IC 20-29-2-6). The factfinder's order may not impose

terms beyond those proposed by the parties in their last, best offers.

(c) Costs for the factfinder shall be borne equally by the parties.

(d) Factfinding may not last longer than thirty (30) days.

As added by P.L.229-2011, SEC.181. Amended by P.L.219-2015, SEC.4.

IC 20-29-6-16

Continuation of existing agreement; circumstances

Sec. 16. (a) If an agreement has not been reached on the items to be bargained collectively by November 1, as provided in IC 6-1.1-17-5, the parties shall continue the terms of the current contract that is in effect, and the school employer may issue tentative individual contracts and prepare its budget on that basis. During this period, in order to allow the successful resolution of the dispute, the school employer may not unilaterally change the terms or conditions of employment that are issues in dispute.

(b) Upon the expiration of the current contract that is in effect, except for performance stipends and additions to base salary provided under IC 20-43-10-3, 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, unless continuation would put the school employer in a position of deficit financing due to a reduction in the employer's actual general fund revenue or an increase in an employer's expenditures when the expenditures exceed the current year actual general fund revenue.

(c) The only parts of the contract that must continue under this section are the items contained in the contract and listed in section 4 of this chapter.

(d) This section may not be construed as relieving the school employer or the school employee organization from the duty to bargain collectively until a mutual agreement has been reached and a contract entered as called for in this chapter.

As added by P.L.1-2005, SEC.13. Amended by P.L.48-2011, SEC.24; P.L.229-2011, SEC.182; P.L.239-2015, SEC.9.

IC 20-29-6-17

Repealed

(As added by P.L.1-2005, SEC.13. Repealed by P.L.48-2011, SEC.39.)

IC 20-29-6-18 Version a

Appeal of factfinder's decision

Note: This version of section amended by P.L.239-2015, SEC.10, effective 5-7-2015. See also following version of this section amended by P.L.219-2015, SEC.5, effective 7-1-2015.

Sec. 18. (a) Either party may appeal the decision of the factfinder under IC 20-29-6-15.1. The appeal must be filed not later than thirty

(30) days after receiving the factfinder's decision.

(b) The board's decision must be restricted to only those items permitted to be bargained and included in the collective bargaining agreement under section 4 of this chapter and must not put the employer in a position of deficit financing, as defined in IC 20-29-2-6 or prohibit the employer from making any reductions described in section 3(b) of this chapter. The board's decision may not impose terms beyond those proposed by the parties in their last, best offers.

(c) The board must rule on the appeal within thirty (30) days after receipt of notice of appeal.

As added by P.L.48-2011, SEC.25. Amended by P.L.6-2012, SEC.140; P.L.239-2015, SEC.10.

IC 20-29-6-18 Version b

Appeal of factfinder's decision

Note: This version of section amended by P.L.219-2015, SEC.5, effective 7-1-2015. See also preceding version of this section amended by P.L.239-2015, SEC.10, effective 5-7-2015.

Sec. 18. (a) Either party may appeal the decision of the factfinder under IC 20-29-6-15.1. The appeal must be filed not later than thirty (30) days after receiving the factfinder's decision.

(b) The board's decision must be restricted to only those items permitted to be bargained and included in the collective bargaining agreement under section 4 of this chapter and must not put the employer in a position of deficit financing, as defined in IC 20-29-2-6. The board's decision may not impose terms beyond those proposed by the parties in their last, best offers.

(c) The board must rule on the appeal within sixty (60) days after receipt of notice of appeal.

As added by P.L.48-2011, SEC.25. Amended by P.L.6-2012, SEC.140; P.L.219-2015, SEC.5.

IC 20-29-6-19

Internet posting of collective bargaining agreement provisions

Sec. 19. Not later than fourteen (14) business days after the parties have reached an agreement under this chapter, the school employer shall post the contract upon which the parties have agreed on the school employer's Internet web site.

As added by P.L.148-2012, SEC.4.