

IEERB NPD Doc. No. 2015-1: Pre-Impasse Mediation

I. PURPOSE

The General Assembly's approval of mediation to settle collective bargaining disputes is clear from the statute's requirement for mediation once impasse is declared. *See* Indiana Code § 20-29-6-13. However, the parties only have 60 days to formally bargain, and 30 days to mediate once impasse is declared. *See id.* IEERB seeks to encourage and, if requested, facilitate additional opportunities for the parties to engage in mediation prior to the declaration of impasse. As such, this Policy establishes guidelines for pre-impasse mediation – mediation during formal collective bargaining.

II. APPLICABILITY & SCOPE

This Policy applies to all bargaining parties under IEERB's jurisdiction. This Policy does not cover impasse mediation, which is conducted pursuant to Indiana Code Art. 20-29 and 560 Ind. Admin. Code 2.

Any process provided by this Policy beyond what is required by the teacher collective bargaining law and rules, Indiana Code Art. 20-29 and 560 IAC 2, or any other applicable law or rule, shall be considered voluntary only. This Policy does not create any additional obligations or liability on the part of IEERB or its representatives. IEERB's failure to follow this Policy shall not be the basis for declaring any policy, decision, or final action void. Additionally, IEERB may provide additional services than what is provided below. Such additional services do not create an obligation to provide such a service in the future.

III. POLICY

A. Pre-Impasse Mediation Procedure

- a. At any time after August 1 and before September 30, the parties may mutually request that the Board appoint a mediator.
- b. This request must be in the form, and in the manner, requested by IEERB staff.
- c. The mediator shall be appointed from IEERB's staff or ad hoc panel.
- d. IEERB shall honor mutual appointment requests. In the event the requested mediator is unwilling or unable to take the appointment, the parties shall determine whether they agree on a different mediator, or whether IEERB shall appoint the mediator.
- e. All costs of the pre-impasse mediation, including mileage and other travel expenses approved by IEERB, shall be borne equally by the parties. Parties failing to attend scheduled mediation sessions shall be charged the entire amount for the missed session, including the mediator's mileage and other travel expenses, any preparation by the mediator for the session, the mediator's time in traveling to and from the session, and any reasonable time spent by the mediator at the session waiting for the party who failed to show.
- f. IEERB shall pay the mediator, and then bill the parties. Invoices are due within 30 days of receipt.
- g. The number of mediation sessions will be determined by the parties.
- h. Pre-impasse mediation will end no later than September 30.

- i. The mediator conducting pre-impasse mediation will not conduct impasse mediation between the same parties in the same bargaining season unless mutually requested by the parties.

B. Scope of Pre-Impasse Mediation

- a. Mediation under this policy is not subject to the mediation rules under Indiana Code Ch. 4-21.5-3.5.
- b. Pre-impasse mediation shall only be used for disputes regarding the settlement of a collective bargaining agreement. Other mediation procedures shall be used for other disputes, such as unfair practice or representation cases.

C. Confidentiality & Immunity

- a. Information disclosed by a party to a mediator in the performance of mediation functions shall not be disclosed by the mediator voluntarily or by compulsion outside of the mediation process. All files, records, reports, documents, or other papers prepared by a mediator, aside from the mediator's payment worksheet, shall be confidential. The mediator shall not produce any confidential records of, or testify in regard to, any mediation conducted by the mediator, on behalf of any party to any cause pending in any type of proceeding.
- b. A mediator, co-mediator, or team mediator appointed by the Board has immunity in the same manner and to the same extent as a judge having jurisdiction in Indiana.

IV. LEGAL REFERENCES

Indiana Code §§ 20-29-6-12, 20-29-6-13 & 20-29-8-10.1
560 Indiana Administrative Code 2-4-1, 3, 5

V. EFFECTIVE DATE

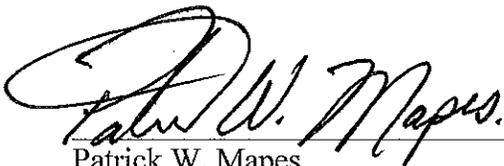
This Policy shall be effective upon publication in the Indiana Register.

VI. ENDING DATE

This Policy shall remain in effect until the date it is superseded or deleted by the publication of a new document in the Indiana Register.

VII. APPROVAL

This Policy was approved at the Board's public meeting on June 19, 2015.



Patrick W. Mapes
Chairman, IEERB

6-19-15

Date

Richard Hogue, Member
Jane Ann Himsel, Member