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Indiana Teacher Bargaining Law Review

Presented by
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Indiana Code 20-29-5-3 *Petition*

- The school employer, a school employee organization, or 20% of teachers may file a petition with the Indiana Education Employee Relations Board (IEERB) to decertify the current association as the exclusive representative.
- If school employer files where an existing representative is in place, it must assert that the school employer has good faith doubt that the previously certified school employee organization represents a majority of employees in the bargaining unit.
- Since 2011 the law requires the current employee organization to file an affidavit showing its membership percentage [see IC 20-29-5-7(e)], so good faith doubt can be based on affidavit.

Indiana Administrative Code 560-2-2-3 ***Posting of Petition Notice***

- After the filing of a petition or receipt of a petition filed by another party, the school employer shall, at the request of IEERB, post a notice in places where notices are normally posted affecting the school employees in the unit involved in the proceeding.
- Such notice shall be on a form to be furnished by IEERB and shall contain the following:
 1. name of the party or parties filing the petition;
 2. a description of the unit involved and the action requested;
and
 3. a statement that any interested parties may, up to three (3) days prior to the hearing, advise the board of their intention to intervene.
- The notice shall remain posted for a period of ten (10) days from the date of receipt by the school employer.

IAC 560-2-2-13

Time for Filing

- Generally, a petition for decertification cannot be filed if there is an existing written collective bargaining agreement between the school employer and a school employee organization.
- However, a petition can be filed between January 15 and February 14 of the year that the collective bargaining agreement expires.
- In addition, if there is no collective bargaining agreement in effect, a petition for decertification can be filed. Under IC 20-29-6-12, collective bargaining cannot begin until August 1 of any given year. If a collective bargaining agreement expires June 30 (as it does in CCS) there can be no collective bargaining agreement between July 1 and August 1 and therefore no impediment to filing a petition.

560 IAC 2-2-4

Intervenors

- School employee organization can intervene (essentially get a spot on the ballot) with a showing of interest from at least 20% of the bargaining unit.
- After an intervenor has presented a showing of interest, IEERB election officer will grant intervenor access to bargaining unit members. See *North Lawrence*, IEERB Case No.R-92-06-5075.
 - For example, intervenors would have access to school email, bulletin boards, etc. equal to the access given to the incumbent association.

Indiana Code 20-29-5-3 ***Investigation and Hearing***

- IEERB will investigate whether reasonable cause to believe that a question exists as to whether the designated exclusive representative or any school employee organization represents a majority of the school employees in a unit
- If IEERB finds such cause exists, it shall provide for an appropriate hearing within thirty (30) days.
- If hearing shows a question of representation does exist, IEERB will direct an election by secret ballot in a unit the IEERB determines to be appropriate.

Indiana Code 20-29-5-3 *Election*

- Certification as the exclusive representative may be granted only to a school employee organization that has been selected in a secret ballot election, by a majority **of all the employees in an appropriate unit** as their representative.
- The ballot must contain
 - (1) The name of the petitioning school employee organization.
 - (2) The names of any other school employee organization showing written evidence satisfactory to the board of at least twenty percent (20%) representation of the school employees within the unit.
 - (3) A provision for choosing "No representation by a school employee organization."

Indiana Administrative Code 560-2-2-9 ***Election Procedures***

- Eligible voters shall be those school employees included within the unit described in the collective bargaining agreement for consent election or as determined by IEERB.
- School employer is required to file an election eligibility list.
- Voting may be by mail ballot with a 14-30 day polling period.
- IEERB or its agent(s) in the presence of the authorized observers shall count and tabulate the ballots.

Indiana Administrative Code 560-2-2

-10 RUNOFF *Election*

Where at least 3 options in the original election (2 employee organizations + “no representation), and no option receives a majority of *eligible* employees, IEERB will conduct 1 runoff election.

-12 RE-RUN *Election*

Where no certification of representation can be issued because the election results are inconclusive and less than all eligible voters cast ballots, IEERB shall conduct a rerun.

Indiana Administrative Code 560-2-2-12 *Certification and Closing the Case*

- If no choice receives a majority of votes from eligible employees, then the status quo remains in effect.
- If no objections are filed, IEERB will issue to the parties a certification of results of the election or a certification of the exclusive representative; and the proceeding will thereupon be closed.
- If objections filed, heard by full IEERB Board.

Employer Role in the Process

- Once an employer files a petition, the representation determination process is under the statutory authority of IEERB.
- Employer has a duty to assist IEERB with the process by providing information and facility access as requested by IEERB.
- Employer's ability to communicate on process is limited to statements of factual/objective information.