

The duty to discuss certain topics

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While Indiana’s collective bargaining law has changed over the years, the law has always required school employers to engage in discussion with the teachers’ association on certain subjects. Those subjects include curriculum development and revision, selection of curricular materials, teaching methods, student discipline, class sizes, hiring, evaluating, assigning, and retaining employees, and safety issues for both students and employees in the workplace. The complete list of subjects of discussion may be found at [IC 20-29-6-7](#).

As a general rule, school administrators, as opposed to school board members, fulfill the duty to discuss by meeting with teachers who have been appointed by the teachers’ association to serve on the discussion committee. The duty to discuss is triggered whenever the administration is proposing a new policy or procedure or is proposing changes to an existing policy or procedure that touches upon one of the mandatory subjects of discussion.

The Indiana Court of Appeals ruled many years ago that the law requires discussion of overall policies and procedures that impact teachers as a whole. Thus, the duty to discuss is not implicated in scenarios that affect individual teachers, such as where one teacher is being transferred or one teacher is being terminated. See Indiana Education Employment Relations Board v. Carroll Consolidated School Corporation, 439 N.E.2d 737 (Ind. Ct. App. 1982).

The bargaining statute defines the word “discuss” as “the performance of the mutual obligation of the school corporation through its superintendent and the exclusive representative to meet at reasonable times to discuss, provide meaningful input, or exchange points of view” See [IC 20-29-2-7](#). Both statute and case law make it clear that the duty to discuss does not require the parties to come to an agreement on any proposed policies or revisions. But, depending on the complexity of the subject or the nature of the proposed changes, and in order for there to be “meaningful discussion,” the discussion process may require multiple meetings and an exchange of several proposals in order to meet the discussion obligation.

So what is the board’s role in the discussion process? School board members should understand what subjects must be discussed with the teachers’ association because the board may be asked to adopt a new or revised policy that relates to the mandatory subjects of discussion. Before adopting any such policy, school board members should verify with the administration that it has been properly discussed with the association.

As spring approaches, school boards will likely be acting on such items as student discipline rules, adoption of curricular materials, changes to remote learning/virtual instruction methods, and/or employee hiring policies. Each of these subjects is considered a mandatory subject of discussion and therefore, before the board takes any action, the board should ensure the discussion obligations set forth in statute have been met.