

Board Policy 5295: Professional Employee Representation for Purposes Status: ADOPTED of Negotiations

Original Adopted Date: 10/14/2014 | **Last Revised Date:** 12/11/2018,08/18/2026 | **Last Reviewed Date:**

In accordance with the applicable provisions of Idaho Code, in order for the District to engage in negotiations with an authorized local education association (LEA), upon Board request, the LEA shall be required to demonstrate to the District that it has been duly chosen and selected by 50% plus one of the professional employees of the District, excluding administrative personnel, as their representative LEA for negotiations.

Any efforts to demonstrate the association represents a majority of certified employees or to otherwise engage in association activities must follow Policy 5296.

Starting Negotiations

A party that wants to start negotiation shall provide the other party notice of such interest, in writing.

If the Board is interested in starting negotiations, it shall provide written notification to all representative education associations for which membership is known to exist at the District (i.e. local IEA, AFT, NWPEA etc. affiliate). If the District is not aware of any membership, the District has no obligation to provide notice. However, if the District is aware that an association has 50% plus one dues paying members, the District need only contact this one LEA about starting negotiations.

If an association is interested in starting negotiations, a written letter shall be advanced by the association to the Board's Clerk. An association interested in starting negotiations need not be a formal association with any ties to any state or national entity. The association may be entirely comprised of a local group of professional employees of the District, with no affiliation to any outside association.

Identification of the Number of Professional Employees Required for Negotiations

Upon notification of interest in starting negotiations, whether the notice is from the District or by an association, the District shall prepare a list of all professional employees of the District currently on contract, excluding those serving as administrative personnel.

District personnel shall ascertain from this list how many individuals the association must represent to obtain LEA status for the purpose of negotiations pursuant to the 50% plus one statutory requirement. If there is only one education association active in the District, and the Board is confident it represents 50% plus one of the eligible employees, the Board may, at its option, waive the requirement for the association to demonstrate they represent 50% plus one of the eligible employees.

The District shall notify the association of the representation number necessary to meet the 50% plus one statutory requirement. This notification shall be in writing or via electronic communication to maintain a record of the communication.

If an employee is a partial administrative FTE and a partial teaching FTE, and is counted as such on the District's State reporting, the District may include the partial teaching FTE, only to the extent of the percentage of the partial teaching FTE, in the listing and calculation for representative status.

If there is any question about the number of professional employees required to reach the 50% plus one representative status, a meeting shall be held between one or more District representatives and representation of the association to review the manner in which the figure was reached.

Obtaining Authorization and Representative Status

The association process for obtaining authorization for representative status for the purposes of negotiations must include the following:

1. Representation authority for the purpose of negotiations must be documented in writing.
2. Representation authority for the purpose of negotiations must be associated with the current or immediate previous school year in question, even if the authority is contended to be continuing or rolling. The current or immediate previous school year's representation authority status shall be noted on the written authorization from the professional employee.
3. For representation status for the purpose of negotiations, the subject employee need not be a member, dues paying or otherwise, of any official labor organization, association, or union.

Both parties shall comply with the requirements of the Code of Ethics for Idaho Professional Educators, and the Idaho Right to Work Laws, and IC 33-1272 et seq. as well as the requirements set out in Policy 5296.

Neutral Party Selection

The District shall create a list of three neutral individuals from which one will be selected by the parties to serve as the "Neutral Party", the individual responsible for reviewing and determining if

the association has met the representative status of 50% plus one as required by statute.

This list shall be prepared in writing, and all individuals on the list shall have been contacted to confirm their willingness and ability to perform these duties and to confirm:

1. The neutral individual is not and has never been an employee with the District, and they do not have a spouse, parent, child, or grandchild who is or was an employee of the District.
2. The neutral individual is not and has never been a member of any LEA.
3. The neutral individual list shall be generated from a review of local current and/or former public officials and public citizens who serve the community. Examples may include, but are not limited to local city council members or employees, local mayors or mayor's office employees, local legislators, employees of the State Department of Education, employees of the State Board of Education, local judges or county clerk's, officials or officers at a local banking institution, etc.

A meeting shall be held between one or more District representatives and representatives of the association seeking to obtain LEA status. At the meeting, the written list of neutral individuals will be provided and discussed. If the parties cannot mutually agree to select one of the individuals from the list, the parties shall take alternative turns, each striking one individual from the list to leave a final selection, with the association seeking to obtain representative status having the first option to strike a name. The final name left after each side has had the chance to strike one will serve as the neutral party responsible for determining if the association has met the representative status of 50% plus one as required by statute.

After selection of the neutral party, both the District and association shall sign written notification of the selection, and neither party shall have communications, directly or indirectly, with the neutral party unless both parties consent to the communications and participates in them.

Neutral Party Review

Jointly, the District and the association shall provide the neutral party with the following information to ascertain representative status:

1. The District shall provide, in writing, to the neutral party, the list of certified employees on contract, excluding administrative personnel, prepared as described above.
2. The association shall provide to the neutral party, in writing, authorization documentation from each certified employee who has signed such, documenting authority to act as a representative for the purpose of negotiations. This documentation must be no more than two years old.

3. The association is not required to provide the current authorization documentation to the District or its administration, but it may choose to do so.
4. The District shall provide a copy of this policy as well as a copy of Section 33-1272, Idaho Code.

The neutral party shall then compare the list provided by the District and the current authorizations from the association. Any authorizations that are older than two years shall not be counted in the establishment of representative status. Upon completion of the comparison, the neutral party shall prepare a written letter indicating the exact percentage of District certified employees, to the second decimal, that have provided written authorization to the association to serve as a representative for negotiations purposes. This letter shall be notarized and jointly provided to the District and the association seeking representation status for the purpose of negotiations.

Final Steps

If representative status of 50% plus one has been obtained, the District and the now-determined LEA may start the negotiation process. If such representative status has not been met due to failure to meet the statutory required levels, negotiations shall not commence.

If no new association seeks to obtain representative status for the purpose of negotiations and to be deemed the LEA, the District's Board may establish compensation and benefits and other working conditions as it deems appropriate in due course.

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Legal References	Description
33-1275	Terms of Agreements
33-1279	Released Time for Service on State Committees And Commission
IC § 33-1216, et seq.	Teachers - Sick and Other Leave
IC § 33-1271	School Districts – Professional Employees – Negotiation Agreements
IC § 33-1272	Teachers - Definitions

IC § 33-513	Professional Personnel
IC § 44-2001	Right to Work - Declaration of Public Policy
IC § 44-2003	Right to Work - Freedom of Choice Guaranteed, Discrimination Prohibited
IC § 44-2004	Right to Work - Voluntary Deductions Protected
IC § 44-2006	Right to Work - Coercion and Intimidation Prohibited
IC 33-1277	Taxpayer Funding of Teachers Unions Prohibited
IDAPA 08.02.02.076	Code of Ethics for Idaho Professional Educators
Other References	Description
ISBA Policy Services	https://www.idsba.org/member-services/policy/

Cross References

Code	Description
5296	Limits on Local Education Association Activities
5296	Limits on Local Education Association Activities
7600	Declaration of Financial Emergency
7600	Declaration of Financial Emergency
7600	Declaration of Financial Emergency
7600	Declaration of Financial Emergency