

Frequently Asked Questions Regarding Collaborative Conferencing

1. What is collaborative conferencing?

Collaborative conferencing is the process by which representatives designated by professional employees and the management team meet to confer, consult, discuss and exchange information, opinions and proposals on matters relating to terms and conditions of professional service using the principles and techniques of interest-based collaborative problem-solving. This process was created by the Professional Educators Collaborative Conferencing Act of 2011 (“PECCA”).

2. What is interest-based collaborative problem-solving?

Interest-based collaborative problem solving is not defined in PECCA, however, it is likely the General Assembly modeled the communication method after interest-based bargaining – a process by which the parties discuss areas of concern in an open, non-adversarial manner.

3. Are all districts required to participate in collaborative conferencing?

No. Collaborative conferencing is required only if the professional employees vote to conduct collaborative conferencing with the board.

4. How is collaborative conferencing initiated?

Upon submission of a written request to conduct collaborative conferencing by 15% or more of the professional employees in the district, the board must establish a special question committee for the purpose of conducting a confidential poll of eligible employees to determine if a majority of the employees desire to participate in collaborative conferencing. The poll will contain two questions. First, eligible employees will be asked the following: “Shall the professional employees of this LEA undertake collaborative conferencing with the board of education?” The employee will answer “Yes” or “No”.

Second, employees will be asked to indicate which of the professional employees’ organizations having a presence in the LEA he or she prefers to represent the employee in collaborative conferencing. This second question will include an option for a response of “Unaffiliated” in the event the employee has no preference. If the employee answers “No” to the first question, the second question will additionally contain an option for the response of “None of the above.” This “None of the above” response will indicate that the employee does not want to be represented in collaborative conferencing even if such conferencing is approved and takes place.

5. Who serves on the special question committee and how are the members appointed?

The board of education appoints an equal number of professional employees and board members to serve on the committee.

6. Do all licensed employees vote in the collaborative conferencing poll and, if approved, subsequently participate in collaborative conferencing?

No. Only “professional employees” as defined by PECCA participate in the process. These individuals are defined in the new law as employees who devote a majority of their time to system-wide areas of professional management, fiscal affairs or general management. Specifically, principals, assistant principals, supervisors and others whose principal responsibilities are administration rather than teaching are excluded from the teachers’ collaborative conferencing unit.

7. Who does the board collaborate with?

If a majority of the eligible employees vote to support collaborative conferencing, the board will collaborate with representatives of those professional employees’ organizations that receive 15% or more support pursuant to the second question contained in the confidential poll. If 15% or more indicate a preference for “Unaffiliated,” then the special question committee will appoint a person or persons to serve as an unaffiliated representative. For the purposes of particular representation, the option of “None of the above” is not considered a professional employees’ organization.

8. Does this mean that the board will no longer negotiate solely with one “recognized” professional employees’ association?

Yes, provided more than one professional employees’ organization receives at least 15% or more of the vote relative to the second question contained in the confidential poll. Unlike the previous legal framework, which provided for exclusive recognition of a professional employees’ organization, PECCA is inclusive of all professional employees’ organizations that receive the specified minimum level of support (15%) through the voting process.

9. Who represents the board in collaborative conferencing?

The board appoints at least seven but no more than 11 persons to serve as “management personnel.” These individuals represent the board in the collaborative conferencing process.

10. How many individuals represent the professional employees in collaborative conferencing?

The professional employees are entitled to the same number of representatives as the number of management personnel selected by the board to represent it in the process.

11. How is representation for the professional employees determined?

Representation is determined according to each employees’ organization’s proportional share of the responses to the confidential poll and limited only to those organizations receiving at least 15% of the vote.

12. If the category of “Unaffiliated” is entitled to representation, who chooses the representative(s)?

The special question committee will appoint the person or persons to serve as unaffiliated representatives.

13. What terms and conditions of employment must be discussed in collaborative conferencing?

The following items are required for discussion:

- 1) Salaries or wages;
- 2) Grievance procedures;
- 3) Insurance;
- 4) Fringe benefits;
- 5) Working conditions, except those working conditions prescribed by federal law, state law, private act, municipal charter or rules and regulations of the state board of education, the department of education or any other department or agency of state or local government;
- 6) Leave; and
- 7) Payroll deductions, except such deductions for political activities.

14. Are there certain terms and conditions that are prohibited from being discussed as part of collaborative conferencing?

Yes. The following items are prohibited:

- 1) Differentiated pay plans or other incentive compensation programs tied to performance that exceed expectations or that aid in hiring and retaining highly qualified teachers for hard-to-staff schools and subject areas;
- 2) Expenditure of grants or awards from federal, state or local governments; foundations; or other private organizations that are expressly designated for specific purposes;
- 3) Evaluation of professional employees;
- 4) Staffing decisions and policies relative to innovative educational programs under T.C.A. 49-1-207; innovative high school programs under Title 49, Chapter 15; virtual education programs; and other innovative schools or school districts that may be enacted by the General Assembly;
- 5) All personnel decisions concerning assignment of professional employees, including, but not limited to, filling of vacancies, assignments to specific schools, positions, professional duties, transfers, layoffs, reductions in force and recall. In

addition, no agreement may include provisions that require personnel decisions to be determined on the basis of tenure, seniority or length of service; and

6) Payroll deductions for political activities.

15. How are agreements between the professional employees and the board during collaborative conferencing confirmed and ratified?

If agreement is reached, the parties jointly prepare a memorandum of understanding that is valid for a period not to exceed three years. The memorandum of understanding is then presented to the board of education as an item on the agenda of a regular or special called board meeting.

16. Is the memorandum presented to the professional employees or their organizations for approval?

No. Once the memorandum has been agreed to by the parties involved in the collaborative conferencing process, only the board of education must approve its adoption.

17. Is the memorandum of understanding binding?

Yes. If the board of education approves the memorandum of understanding, the terms and conditions contained therein are binding.

18. What if an agreement cannot be reached on certain terms and conditions through the collaborative conferencing process?

If an agreement cannot be reached, the board of education has the authority to address any unresolved issues through board policy. In other words, while the board is required to participate in conferencing if the professional employees vote to participate, nothing in PECCA requires the board to agree on terms or conditions or enter into a memorandum of understanding if agreement has not been reached.