

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

ANNUAL REPORT

FISCAL YEAR 2012

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February 7, 2013

Governor Pat Quinn
Office of the Governor
207 State Capitol
Springfield, Illinois 62706

Dear Governor Quinn:

Pursuant to Section 5(i) of the Illinois Educational Labor Relations Act, we are pleased to present to you, the General Assembly, and the citizens of Illinois, a statement of the operations of the Illinois Educational Labor Relations Board for Fiscal Year 2012.

This report contains a description of the activities and accomplishments of the Board as well as summaries of major cases decided by the Board and the Illinois courts. We believe that this report reflects the Agency's growth, success, and commitment to the effective implementation of the Act.

Fiscal Year 2012 was a busy year for the Illinois Educational Labor Relations Board. The Illinois Educational Labor Relations Board engaged in rule-making, ruled on injunctive relief requests, conducted elections, mediations, hearings, issued Board decisions and, assisted the Office of the Attorney General in representing the IELRB in all legal matters pending in the courts. Educational employers, employees, and labor organizations were cooperative and eager to work peacefully with the agency to resolve their educational employment disputes. The passage of the education reform law, P.A. 97-0008 (Senate Bill 7) which became effective on June 13, 2011 made significant changes to the Illinois Educational Labor Relations Act. Throughout this year, the IELRB worked diligently to implement the changes created by P.A. 97-0008 in a smooth and efficient manner.

We shall endeavor to continue to develop the necessary elements of fairness and cooperation in educational labor relations in Illinois.

Thank you for your support and for the opportunity to review our accomplishments with you.

Sincerely yours,

Lynne O. Sered
Chairman

HISTORY AND FUNDING SOURCES

The 83rd Illinois General Assembly created the Illinois Educational Labor Relations Board on January 1, 1984 by enactment of House Bill 1530, the Illinois Educational Labor Relations Act, in order to secure orderly and constructive relationships between all educational employees and their employers. The Board is the sole administrative body to resolve collective bargaining disputes, representation questions and allegations of unfair labor practices.

The Illinois Educational Labor Relations Board's had an appropriated budget of \$1,043,300 during Fiscal Year 2012. The Illinois Educational Labor Relations Board receives its funding from the General Revenue Fund.

The IELRB is comprised of five members who are appointed by the Governor and confirmed by the Illinois Senate. By statute, Board members must be residents of Illinois and have a minimum of five years of direct experience in labor and employment relations. Each Board Member shall devote his entire time to the duties of the office and engage in no other work. During Fiscal Year 2012 the Board was comprised of Chairman Lynne Sereed and Board Members Ronald Ettinger, Gilbert O'Brien, Michael Prueter and Michael Smith.

AGENCY MISSION AND STRUCTURE

The Board's primary mission is to maintain, develop and foster stable and harmonious employment relations between public educational employees and their employers. To accomplish this mission, the Board investigates all charges and petitions filed by either a representative union, an individual or by a school district. Besides an extensive review and hearing process, the Board also offers mediation and arbitration services to interested parties as an informal forum to resolve their labor disputes. The adjudication process is three fold. The Executive Director, the agency's Administrative Law Judges and the Board issue decisions on all cases that come before the agency. Although the Board is the final appellate reviewer of agency decisions, its final rulings set forth the legal standards for the interpretation of the Illinois Educational Labor Relations Act and Rules and establishes legal precedent through its decisions. Agency Attorneys and Investigators manage the case decisions under the direction of the General Counsel and Executive Director, the support staff process files and the paperwork associated with the claims and the Board oversees all operations and policy, including the budget.

The Executive Director investigates all unfair labor practice charges, conducts all necessary investigations of voluntary recognition and representation petitions including Majority Interest Petitions, advises the Board on legal issues, trains arbitrators and mediators, implements the Board's Labor Mediation Roster, administers the Board's public information officer program and serves as the Board's Freedom of Information Officer. The Executive Director is responsible for administering all financial transactions, preparing the agency's proposed budget and testifying before the Illinois Legislature as a proponent of the proposed budget. The Executive Director also assigns all clerical and administrative staff within the offices of the IELRB.

The General Counsel serves as the Chief Legal Officer of the Agency and chief legal advisor to the Board. The General Counsel supervises the Board's Administrative Law Judges and Board Attorneys; reviews all recommended decisions of its hearing officers and Executive Director; drafts and issues all unfair labor practice and representation decisions of the Board; advises the Board on legal issues arising in the course of the Board's official duties; serves as the Board's Ethic's Officer; assists the Office of the Attorney General in representing the Board in all legal matters pending in the courts; represent the Board in legal proceedings before other agencies and courts; conducts representation and unfair labor practice hearings; and reviews and revises the Board's Rules and Regulations.

After all unfair labor practice charges are fully investigated and reviewed by the Executive Director, the charge is either dismissed in the form of an Executive Director's Recommended Decision and Order, or sent to Complaint to be heard by an Administrative Law Judge (ALJ). The ALJ will conduct a full evidentiary hearing on the Complaint and at the conclusion of the hearing, issue an Opinion and Order. All formal decisions issued by the Executive Director and an Administrative Law Judge are subject to review by the Board pursuant to a party filing exceptions or by the Board upon its own motion. The Board will review and discuss cases on its docket in open session. Thereafter, the Board will vote on the disposition of each case in open session. A Board decision may be appealed to the Illinois Appellate Court.

The current Board Members are:

Lynne O. Sered, Chairman
Appointed 06/01/10 – 06/01/16

Ronald F. Ettinger
Appointed 06/02/08 – 06/01/14

Gilbert O'Brien
Appointed 06/20/11 – 06/01/16

Michael H. Prueter
Appointed 10/28/11 – 06/01/14

Michael Smith
Appointed 06/20/11 – 06/01/14

Lynne O. Sered

Lynne O. Sered was appointed to serve as Chairman of the Illinois Educational Labor Relations Board in June 2010 by Governor Pat Quinn. Prior to assuming the board chair's responsibilities, she served as a board member since her initial appointment to the Board in October 2000.

Chairman Sered's legal background includes serving as Counsel to the Honorable Wilford W. Johansen, Member of the National Labor Relations ("NLRB") in Washington, D.C. In that capacity, she prepared analyses for and made recommendations to Board Member Johansen and drafted decisions and orders for publication in the areas of collective bargaining, discriminatory hiring and termination practices, union organizing activities and elections, and other unfair labor practice and representation issues under the National Labor Relations Act. During her tenure at the NLRB, Ms. Sered also represented the NLRB in cases before the Second and Sixth Circuit Courts of Appeals.

As an attorney in private practice with the law firm of Scariano, Kula, Elch & Himes, Chtd., Chicago and Chicago Heights, Illinois, she counseled school districts, private employers and labor clients regarding litigation, legal strategies and policy issues pertaining to labor law and collective bargaining issues.

Ms. Sered also practiced with the law firm of Katz and Buhai in South Barrington, Illinois, where she represented clients in labor and employment discrimination matters in state and federal courts and administrative agencies. She also served as staff counsel for the Attorney Registration and Disciplinary Commission, where her duties included the review, analysis and investigation of professional misconduct within the legal profession in Illinois.

In addition, Ms. Sered served as Legal Director of the American Jewish Congress, Midwest Region, in Chicago, where she managed the organization's not-for-profit legal program, focusing on civil liberties and civil rights and

oversaw its pro bono clinic providing legal services to the indigent. Her professional experience is also highlighted by her roles as a domestic policy specialist with the Jewish Community Relations Council and as Midwest regional director of the Jewish Labor Committee.

Ms. Sered received her law degree from DePaul University College of Law and her Bachelor of Arts degree from Indiana University. She is admitted to practice law in Illinois and the District of Columbia and is a member of the Illinois State Bar Association, the Chicago Bar Association and the Women's Bar Association. She has served on the Board of Chicago Volunteer Legal Services and the Government Affairs Committee of the Jewish Federation of Metropolitan Chicago.

Chairman Sered lives with her husband and their two children in Evanston, Illinois.

Michael H. Prueter

Michael H. Prueter was appointed to the Illinois Educational Labor Relations Board in October 2000. Mr. Prueter served as Government Liaison for a number of corporations and trade associations where he negotiated labor contracts with local and national food service vendors. He has received numerous local, state and national awards for his work in youth and family services, humanitarianism, and in legislation. He also received the Illinois General Assembly Award of Recognition for his work. He also served on a national legislative policy board in Washington, D.C. for several years.

Mr. Prueter has served for many years as pro bono Director of Government Affairs for the Illinois State Crime Commission and as a mentor and tutor in

an alternative education program through the Regional Office of Education in DuPage County.

As a mortgage banker, Mr. Prueter has several years of business experience in the banking and financial services industry. Mr. Prueter has previously worked as a staff member in the Illinois House and Illinois Senate. He was elected in his township as Township trustee and served the public in this capacity for 10 years. Mr. Prueter received his Masters in Business Administration from Columbia State University.

Ronald F. Ettinger

Ronald F. Ettinger was appointed to the Illinois Educational Labor Relations Board in 2004 and reappointed in 2008. Prior to his appointment he had retired from the University of Illinois at Springfield (UIS) as Emeritus Professor. During his 30 years of service at UIS (formerly Sangamon State University), Professor Ettinger served as Chair of the Faculty Senate and President of the Faculty Union. He also served as Executive Vice-President of the University Professionals of Illinois (Local 4100, IFT/AFT AFL-CIO) where his primary duties involved lobbying on behalf of public university faculty in Illinois. He was elected Vice-President of the Illinois Federation of Teachers and Delegate to the Illinois AFL-CIO.

Member Ettinger received a Ph.D. in clinical psychology from Purdue University and has taught at Purdue, York University (Toronto), Albion College and UIS. In addition to teaching and publishing articles related to education and labor relations, he has served as a member of the board of the Montessori Children's House in Springfield and has lobbied on behalf of public school teachers as a government

affairs specialist with the Illinois Federation of Teachers.

Member Ettinger is married to Bonnie J. Ettinger and they have two daughters.

Gilbert O'Brien

Gilbert F. O'Brien was appointed to the Illinois Educational Labor Relations Board in 2011 by Governor Pat Quinn. Mr. O'Brien comes to the Board with thirty years of experience in government and labor law. In 1991 he was appointed by Secretary of State George Ryan to serve on his transition team as labor policy liaison, thereafter he was hired as Chief Labor Liaison for the Office. Mr. O'Brien served in this capacity for eight years negotiating contracts and collective bargaining agreements with Union representatives working for the Illinois Secretary of State. Mr. O'Brien acted as a Governmental Affairs Consultant for the Teamsters Local 705, advising their Secretary-Treasurer on governmental operations that potentially affected their interest.

In January of 2000, Jesse White appointed Mr. O'Brien as Executive Labor Liaison to negotiate collective bargaining agreements and advise the Secretary on labor policy issues. He participated in labor negotiations between various unions and the State of Illinois. He is a resident of Glen Ellyn.

Michael Smith

Michael K. Smith was appointed to the Board by Governor Pat Quinn in June 2011. Prior to his appointment he served as a member of the Illinois House of Representatives for sixteen years. Before being elected to the legislature he was a Citizens Advocate in the Office of the Illinois Attorney General.

As a member of the Illinois General Assembly, Member Smith served his entire tenure on the Elementary & Secondary Education Committee

including four years as the chairman. He also served as a member of the Appropriations Committee for Elementary & Secondary Education including four years as chairman. His service also included as a member during various terms on the Higher Education Committee and the Personnel & Pensions Committee. He was appointed by the Speaker of the House to serve on the Pension Laws Commission.

Member Smith received his Bachelor of Arts degree from Bradley University. He is married and resides with his wife in Canton.

Victor E. Blackwell

Victor E. Blackwell was appointed Executive Director of the Illinois Educational Labor Relations Board in February, 1996. Prior to his appointment, Mr. Blackwell served as Chief of Prosecutions at the Illinois Department of Professional Regulations for five years. He was also Chicago Personnel Manager for the Illinois Secretary of State from 1987 to 1991. He was Personnel Analyst for the Illinois Secretary of State, an Adjudicator for the Illinois Department of Rehabilitation Services, and a Securities Legal Intern and Reference Library Intern for the Illinois Secretary of State. Mr. Blackwell received his Juris Doctorate degree from Loyola University's School of Law where he graduated with honors, and his Bachelor of Arts degree from the University of Illinois in Political Science with triple minors in Economics, Sociology and Spanish.

Helen Higgins

In May 1984, Helen Higgins was hired as the first career staff attorney of the newly-created Illinois Educational Labor Relations Board (IELRB). In 1987, she

joined the Chicago Law Office of the United States Postal Service, litigating labor and employment cases. In November 2002, she returned to the IELRB as General Counsel.

She attended the University of Illinois in Champaign-Urbana for undergraduate and graduate school. She has a master's degree from the Institute of Labor and Industrial Relations; her major was in collective bargaining. She graduated with high honors from IIT Chicago-Kent College of Law in 1984.

AGENCY ACTIVITIES

The Agency processes three categories of cases: representation cases, unfair labor practice cases and mediation cases.

Representation Cases

The most common types of representation cases are petitions for representation and petitions for unit clarification. Petitions for representation are generally filed by a labor organization seeking to be certified as the exclusive bargaining representative of a unit of educational employees or seeking to add employees to a unit which is already represented. The Act provides for a majority interest procedure to expedite certification if the petition is supported by more than 50 percent of the proposed bargaining unit and there are no objections or other issues which could affect majority status. The Act also provides for representation elections to be conducted if the unit sought will contain professional and nonprofessional employees; the unit is an historical one; if the petition seeks to decertify an exclusive representative or if the petition is supported by at least 30 percent of the proposed bargaining unit.

The second major category of representation cases are petitions for unit clarification. The unit clarification process is appropriately used primarily to add or remove statutorily excluded employees from a bargaining unit; to resolve ambiguities concerning the unit placement of individuals who come within a newly-established classification or who fall within an existing job

classification that has undergone recent, substantial changes; and/or to resolve unit ambiguities resulting from changes in statutory or case law.

The Board also processes several other types of representation petitions, including petitions for voluntary recognition by an employer of an exclusive bargaining representative; petitions to amend certification due to a minor change in the name or organization of the exclusive bargaining representative; and petitions filed by an employer to determine whether a labor organization or exclusive representative represents a majority of the bargaining unit.

All representation petitions are investigated by the Board's agents. If a question concerning representation is raised during the course of the investigation, the case is scheduled for hearing and assigned to an Administrative Law Judge for resolution.

If an election is to be held, the Board Agent works with the parties to reach agreement on the date, time, place and other details of the election. Elections are conducted by secret ballot at a time and place when the majority of employees in the bargaining unit are working. Parties may file objections to the election within five days after the election. Objections are investigated, and if the objections are found to have affected the outcome of the election, a new election will be held. When the election procedures have concluded, a certification is issued by the Board.

Representation Cases 2012

Representation Cases Filed in FY 2012

Petition to Determine Representative (RC)	16
Petition to Decertify Representative (RD)	4
Petition to Determine Unit (RS)	36
Petition to Determine Unit/Employer Filed (RM)	0
Voluntary Recognition Petition (VR)	1
Unit Clarification Petition (UC)	32
Amendment to Certification Petition (AC)	2
MIP Cases (includes RC and RS figures above/not added to total)	42
Total	91

Agency Activity on All Representation Cases for FY 2012

Certification of Representation	10
Certification of Results	2
Certification of Voluntary Representation	0
MIP Order of Certification	48
Withdrawal	6
Executive Director's Recommended Decision & Order	25
ALJ's Recommended Decision & Order	6
Elections/polls	13
Cases mediated by Board Agents	7
Total	117

Unfair Labor Practice Cases

Unfair labor cases are charges alleging that the conduct of an employer or a union, or both, constitute conduct prohibited by the Act. Unfair labor practice charges can be filed by educational employers, unions, or employees. After a charge is filed, it is assigned to a Board agent who conducts an investigation by contacting both the charging party and the charged party to obtain statements and documents from each party to support their position. At the conclusion of the investigation, the Executive Director may either dismiss the charge or issue a complaint. A charging party whose charge has been dismissed by the Executive Director may appeal that decision to the Board. When the Executive Director issues a complaint, the matter is set for hearing before an Administrative Law Judge. During the hearing, the parties have the opportunity to present witnesses to testify and present documentary evidence. After the hearing, the Administrative Law Judge issues a Recommended Decision and Order in

which the Administrative Law Judge either finds that an unfair labor practice charge has been committed and orders an appropriate remedy or dismisses the charge. The Administrative Law Judge's Recommended Decisions and Orders are appealable to the Board.

The Board offers mediation in all unfair labor practice cases. Mediations most frequently occur after the Executive Director issues a complaint, but before the date of the scheduled hearing. However, Board agents can conduct mediations with the parties at all times during the unfair labor practice charge process. During mediation, both the charged party and the charging party meet with a Board agent to attempt to resolve the dispute and withdraw the unfair labor practice charge. Mediation is an important case processing tool. The Illinois Educational Labor Relations Board is successfully using mediation to resolve disputes in an amicable manner often avoiding the more costly and adversarial process of litigation.

Unfair Labor Practice Cases 2012

Unfair Labor Practice Cases Filed in FY 2012

Unfair Labor Practice Charge Against Employer (CA)	145
Unfair Labor Practice Charge Against Labor Organization or Agents (CB)	29
Unfair Labor Practice Charge Contesting Fair Share Fees (FS)	91
Total	265

Agency Activity on All Unfair Labor Practice Cases for FY 2012

Withdrawn Pursuant to Settlement Agreement	88
Withdrawn	42
Executive Director's Recommended Decision & Order	52
ALJ's Recommended Decision & Order	24
Complaints Issued	76
Cases Mediated by Board Agents	30
Total	312

Board Activity 2012

Board Opinion & Orders, Final Orders	88
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Impasse Cases

The Board also processes impasse cases, where the parties engaged in collective bargaining, notify the Board of the status of their negotiations and at some point engage in the process of mediation, fact-finding and/or interest arbitration. In bargaining units consisting of professional/instructional personnel, the parties must report on the status of negotiations to the

Board at 90, 45 and 15 days prior to the beginning of the school year. In bargaining units consisting of non-professional/non-instructional personnel, the parties must report to the Board at 45 and 15 days prior to the expiration of the collective bargaining agreement. Fifteen days prior to the beginning of school or fifteen days before the expiration of the collective bargaining agreement, the Board will invoke mediation absent agreement of the parties to defer mediation.

Strike Activity FY 2012

(July 1, 2011 – June 30, 2012)

School County	Union Unit /No.	Notice Filed Date Settled	Strike Date Strike Days
Altamont SD 10 Effingham	IEA/NEA Certified Teachers	10/17/11 12/12/11	
Board of Trustees/ U of I – C (Med Ctr) Cook	SEIU professional employees (500)	5/10/12	5/30/12 3 days
Board of Trustees/ U of I – S Sangamon	UPI, IFT-AFT support staff	7/25/11 9/20/11	
City Colleges of Chicago Cook	IFT/AFT Clerical/Technical (400)	2/17/12 3/09/12	
City Colleges of Chicago Cook	IBEW, Local 1220 Radio & TV engineers (16)	4/20/12 7/12/12	
Community CSD 180 DuPage	IEA/NEA teachers (60)	3/16/12 7/12/12	
Highland CUSD 5 Madison	IEA/NEA Certified (210)	11/22/11 12/15/11	

School County	Union Unit /No.	Notice Filed Date Settled	Strike Date Strike Days
Illini Bluffs CUSD 327 Peoria	IFT/AFT, Local 3810 full & part time faculty (67)	08/04/11 8/28/11	08/17/11 8 days
Kinnikinnick CCSD 131 Winnebago	IEA/NEA certified teachers (128)	4/24/12 6/21/12	
Lake Forest CHS Dist 115 Lake	IEA/NEA certified teachers (130)	11/16/11 11/18/11	
Lewis & Clark CC Madison	IEA/NEA FT Faculty (103)	11/21/11 12/04/11	
Nokomis CUSD 22 Montgomery	IEA/NEA Cert. Employees (40)	10/10/11 11/30/11	
North Boone CUSD 200 Boone	IEA/NEA certified personnel (111)	10/24/11 11/17/11	
Rock Valley College Winnebago	IFT/AFT Faculty (161)	2/14/12 2/15/12	
Rockford SD 205 Winnebago	IEA/NEA professional (1870)	3/12/12 4/02/12	3/29/12 2 days
Sullivan CUSD 300 Moultrie	IEA/NEA certified personnel (87)	9/22/11 10/13/11	
Thornton THSD 205 Cook	IEA/NEA certified staff (442)	5/04/12 5/05/12	
Trico CUSD 176 Jackson	IEA/NEA certified employees (65)	08/23/11 10/11/11	
Zion-Benton THSD 126 Lake	IFT/AFT certified and non-cert.(280)	12/05/11 1/11/12	1/5/12 4 days
SIU-Carbondale* Jackson	IEA/NEA Tenure Faculty (681)	05/03/11 11/09/11	11/3/2011* 5 days
SIU-Carbondale* Jackson	IEA/NEA Civil Service (425))	05/03/11 11/03/11	
SIU-Carbondale* Jackson	IEA/NEA Non-Tenure Faculty (650)	05/03/11 11/03/11	

School County	Union Unit /No.	Notice Filed Date Settled	Strike Date Strike Days
SIU-Carbondale*	IEA/NEA	05/03/11	
Jackson	Grad Assistants (1700)	11/03/11	

Total Notices Filed for FY2012: 19*

Total Strikes for FY 2012: 5

*SIU-Carbondale: Notice filed in FY 2011 (2010-2011 school year), Strike or settlement occurred in FY2012 (2011-2012 school year).

Board and Court Cases

Index of cases from November 1, 2011 through October 31, 2012

Duty to Bargain in Good Faith

Chicago Board of Education/Service Employees International Union, Local 73,

Case No. 2011-CA-0088-C (July 2012)

The Union filed a charge alleging the Employer violated Section 14(a)(5) and (1) of the Act by failing and refusing to provide requested information that was necessary and relevant to the Union's role as bargaining agent. The Executive Director issued a complaint. The parties agreed to proceed on a stipulated record and thereafter filed briefs. The ALJ decided that there were no determinative issues of fact requiring a recommended decision and order, and ordered the matter moved to the Board for decision. The IELRB found that the Employer violated its duty to bargain in good faith when it refused to furnish to the Union the disciplinary files of two students that would have been relevant in the arbitration concerning one of the Union's members. Further, the IELRB held that the decision was not moot even though the underlying arbitration led to a finding in favor of the Union member. The Board cited the ongoing relationship between the parties, and the likelihood of repetition of the unfair labor practice in reaching its conclusion.

Duty to Bargain in Good Faith

Chicago Board of Education/Service Employees International Union, Local 73,

Case No. 2011-CA-0088-C (order on motion to stay, August 2012)

The Employer filed a motion to stay enforcement of the IELRB's Order that the Employer provide the Union with certain relevant information, including the disciplinary files of students with their last names redacted. The Board denied the motion to stay enforcement, finding that the Employer failed to demonstrate "good cause" for granting the stay, and that the enforcement of the IELRB's Order did not run counter to federal or state privacy laws.

Timeliness

Chicago Board of Education/Stinson,
Case No. 2012-CA-0047-C (Sept. 2012)

The IELRB affirmed an Executive Director's Recommended Decision and Order dismissing an unfair labor practice charge because the Charging Party failed to file the charge within six months of when she became aware, or reasonably should have become aware, of the conduct that allegedly constituted the unfair labor practice. The Board reiterated that the six month limitations period is jurisdictional and cannot be tolled.

Injunctive Relief

Community Unit Sch. Dist. 5, a/k/a McLean County Unit Sch. Dist. 5/AFSCME Council 31,
Case No. 2012-CA-0043-S (June 2012)

The Union filed a charge alleging that the Employer violated Sections 14(a)(1), (3), and (5) of the Act by contracting out the district's school bus service because the bus drivers had joined the Union, and by failing to bargain in good faith with the Union. Thereafter, The Union requested that the IELRB seek preliminary injunctive relief. The IELRB held that injunctive relief was appropriate, and authorized the General Counsel to seek injunctive relief preventing the Employer from subcontracting the Employer's transportation services.

Duty of Fair Representation

East Aurora Council, IFT-AFT, Local 604, / Green,
Case No. 2011-CB-0005-C (March 2012)

Union member filed a charge alleging that the Union violated Section 14(b)(1) of the Act by refusing to represent him in a proceeding before the Illinois State Board of Education. The Executive Director issued a Recommended Decision and Order dismissing the charge. The Charging Party filed exceptions. The Union filed an untimely response. The Board affirmed the Executive Director's Recommended Decision and Order dismissing the charge, finding that the Charging Party failed to establish a prima facie violation of the Act. The Board found first that the Union had not engaged in intentional misconduct in violation of its duty of fair

representation, and secondly, that the rights Charging Party was asserting did not arise from the collective bargaining agreement, but rather from the Illinois Teacher Tenure Act, 105 ILCS 5/24-14.

Retaliation for Protected Activity

East Aurora School District 131/ Green,
Case No. 2011-CA-0032-C (March 2012)

The IELRB affirmed an Executive Director's Recommended Decision and Order dismissing an employee's charge alleging that the Employer violated Section 14(a)(1) and (3) of the Act when it suspended and then terminated the employee. The Board held that Charging Party failed to establish a prima facie case by not showing that he was terminated in retaliation for filing grievances.

Board Member Prueter dissented from the majority, holding that the Charging Party had established a prima facie case that the Employer violated the Act. Member Prueter cited evidence that the Employer had shifting explanations as to why Charging Party was terminated in reaching his conclusion.

Procedural Requirements to Filing Charge

East Aurora Council, IFT-AFT, Local 604/ Sandhir,
Case No. 2011-CB-0019-C (January 2012)
East Aurora School District 131/Sandhir,
Case No. 2011-CA-0096-C (January 2012)

The Charging Party filed charges against the Union and the Employer alleging that they had violated certain provisions of Section 14 of the Act. The Executive Director dismissed the charges. The Charging Party filed exceptions to the Executive Director's dismissal, but failed to include a Certificate of Service. The IELRB held first, that the exceptions were untimely filed, and secondly, that the exceptions should be struck because they lacked a Certificate of Service. The IELRB cited Section 1100.20(f) of the IELRB's Rules, which provides that a party's failure to serve a document or to attach a certificate of service may be grounds to strike the document, if the failure results in prejudice to the other party or demonstrates disregard of the IELRB's processes.

Supervisor Status

Illinois State University/AFSCME Council 31,
Case No. 2012-RS-0004-S (June 2012)

The Union filed a majority interest petition with the IELRB seeking to add employees classified as Building Service Foremen to an existing bargaining unit. The Employer opposed the petition on the grounds that the employees in that classification should be considered supervisors, exempt under the Act. The IELRB affirmed the ALJ's Recommended Decision and Order dismissing the petition finding that the Building Service Foremen spent a preponderance of their time directing and assigning work, and were therefore supervisors under the Act.

Timeliness

Jersey Community Unit School Dist. 100 /Grizzle,
Case No. 2012-CA-0003-C (November 2011)

The IELRB affirmed an Executive Director's Recommended Decision and Order dismissing an unfair labor practice charge because the Charging Party failed to file the charge within six months of when he became aware, or reasonably should have become aware, of the conduct that allegedly constituted the unfair labor practice. The Board reiterated that the six month limitations period is jurisdictional and cannot be tolled.

Retaliation

Proviso Township High School District 209/Day,
Case No. 2011-CA-0109-C (April 2012)

Charging Party filed a charge alleging that the Employer violated Sections 14(a)(1), (2), and (5) of the Act by terminating him in retaliation for attempting to organize substitute teachers into a union. The IELRB found that there were unresolved issues of law and fact and remanded the matter back to the Executive Director for further investigation.

Discrimination/Retaliation

Quincy Federation of Teachers, Local #809/Quincy Public School District #172,

Case No. 2010-CA-0001-S (March 2012)

The Union filed a charge alleging that the Employer violated Section 14(a)(1) and (5) of the Act by discharging a Union member in retaliation for the Union successfully contesting items that were contained in the employee's evaluation file. The Executive Director issued a Recommended Decision and Order dismissing the charge in whole. Thereafter, the Union filed exceptions and the Employer filed a response. The IELRB reversed the Executive Director's dismissal in part and remanded the matter back to the Executive Director to issue a complaint on a portion of the charge. The Executive Director then issued a complaint alleging that the Employer violated Section 14(a)(3) and (1) of the Act for giving the employee unsatisfactory ratings and subsequently terminating her. The ALJ found that there were no determinative issues of fact requiring an ALJ's decision, and ordered the matter removed to the Board for further proceedings. At the final stage, the Board dismissed the complaint in its entirety finding that the Union failed to establish that the adverse employment actions were motivated by the employee's union or other concerted activity.

Supervisor Status

University of Illinois at Urbana-Champaign/AFSCME Council 31,

Case No. 2011-RS-0006-S (January 2012)

The IELRB affirmed an ALJ's Recommended Decision and Order dismissing the Union's majority interest petition and found that the employee classification at issue was a supervisory position and thus excluded from the bargaining unit.

Proper Bargaining Unit

University of Illinois/AFSCME Council 31,

Case No. 2012-RS-0009-S (Sept. 2012)

The Union filed a majority interest petition seeking to represent certain classifications of employees at the Employer's Urbana-Champaign

campus. The Employer filed two objections, alleging that the authorization cards were obtained through fraud, and that the proposed bargaining unit did not contain certain positions and was therefore invalid. Noting the clear language on the union authorization cards, the IELRB held that there was not clear and convincing evidence that the employees were fraudulently induced to sign the cards. However, the IELRB dismissed the petition on the grounds that the proposed bargaining unit would be arbitrary as it improperly failed to include the position of Chicago Veterinary Technician.

Proper Bargaining Units

University of Illinois/Service Employees International Union, Local 73,
Case No. 2011-RS-0018-C (May 2012)

The Union filed a majority interest petition with the IELRB seeking to add several positions to the clerical/administrative bargaining unit at the University. The University opposed the certification and contested the petition on the grounds that the proposed bargaining unit was not appropriate under the IELRB's rules for presumptively appropriate bargaining units. The Board admitted that the bargaining unit was not presumptively appropriate under its rules, but that this did not preclude the unit from certification. The IELRB granted the certification, basing its decision on "compelling justifications" for certification, and the Union's history of adding University employees to the clerical/administrative bargaining unit.

Duty to Bargain in Good Faith

Western Illinois Univ. /International Union of Operating Engineers, Local 399,
Case No. 2011-CA-0106-C (July 2012)

The Union filed a charge alleging the Employer violated Section 14(a)(5) and (1) of the Act by failing and refusing to bargain in good faith. The Executive Director issued a complaint. The parties agreed to proceed on a stipulated record, and thereafter filed briefs with the Board. The IELRB found that the Employer did not violate its duty to bargain in good faith when it failed to apply the terms of the existing collective bargaining agreement to a newly added position of the bargaining unit. The Board

held that employers and unions are required to bargain over the terms and conditions of employment of newly-accreted employees when there is an existing collective bargaining agreement in place.

Board Member Prueter concurred with the majority's broader holding, asserting that when there is an existing collective bargaining agreement between the parties, employers and unions should be required to bargain regarding the terms of employment of the newly-added employees. Member Prueter dissented from the majority's disposition, finding that the Employer had violated its duty to bargain in good faith by not responding to the Union's demands that the Employer apply the terms of the existing collective bargaining agreement. Member Prueter reasoned that the Union's demands amounted to a bargaining proposal, and the Employer violated its duty to bargain in good faith when it failed to respond to the Union's demands.

Duty of Fair Representation

Cook County College Teachers Union, Local 1600/ Finley,
Case No. 2011-CB-0009-C (March 2012)

The IELRB affirmed the Executive Director's Recommended Dismissal Order because Finley's facts failed to establish that the Union engaged in intentional misconduct under Section 14(b)(1) of the Act. The Board held that the facts alleged against the Union were untimely as they were outside the six (6) months jurisdictional timeframe.

Unit Clarification

University of Illinois-Chicago/SEIU Local 73, CTW,
Case No. 2012-UC-0005-C (Oct. 2012)

The IELRB affirmed the Executive Director's Recommended Decision and Order (EDRDO) denying the petition for failure to meet requirements for unit clarification petition. On exceptions to the Board, the Union submitted twelve (12) exhibits not presented to the Executive Director and were barred from consideration by the IELRB.

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