

STATE OF ILLINOIS  
EDUCATIONAL LABOR RELATIONS BOARD

ANNUAL REPORT

FISCAL YEAR 2014

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February 9, 2015

Governor Bruce Rauner  
Office of the Governor  
207 State Capitol  
Springfield, Illinois 62706

Dear Governor Rauner:

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 (the Board) for Fiscal Year 2014.

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 2014 was a busy year for the Illinois Educational Labor Relations Board. The Board engaged in rule-making, ruled on injunctive relief requests, conducted elections, held mediations, conducted hearings, issued written decisions and opinions, and made continued progress in meeting its goals under the African American Employment Plan, the Hispanic Employment Plan, the Asian American Employment Plan, and the Bilingual Employment Plan. Additionally, the agency has regularly assisted the Attorney General's office with its representation of the Board in court.

Educational employers, employees, and labor organizations were cooperative and eager to work with the agency to peacefully resolve their educational employment disputes. The passage of the education reform law, P.A. 97-0008 effective on June 13, 2011 made significant changes to the Illinois Educational Labor Relations Act, which the Board implemented in a smooth and efficient manner. The changes made to the Act by Senate Bill 1762, effective January 1, 2014, were implemented in a similar manner.

We will continue to develop and use 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 \$1,662,000 during Fiscal Year 2014. The Illinois Educational Labor Relations Board receives its funding from the Personal Property Tax Relief 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 2014 the Board was comprised of Chairman Lynne Sered 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. He also serviced as a member of 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.

**\*Board member Michael Smith, age 48, passed away on August 9, 2014.**

**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 2014

### Representation Cases Filed in FY 2014

Petition to Determine Representative (RC)	22
Petition to Decertify Representative (RD)	5
Petition to Determine Unit (RS)	23
Petition to Determine Unit/Employer Filed (RM)	0
Voluntary Recognition Petition (VR)	0
Unit Clarification Petition (UC)	25
Amendment to Certification Petition (AC)	1
MIP Cases (includes RC and RS figures above/not added to total)	38
Total	76

### Agency Activity on All Representation Cases for FY 2014

Certification of Representation	3
Certification of Results	2
Certification of Voluntary Representation	0
MIP Order of Certification	42
Withdrawal	9
Executive Director's Recommended Decision & Order	29
ALJ's Recommended Decision & Order	4
Elections/polls	11
Cases mediated by Board Agents	1
Total	101

## 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 2014

#### Unfair Labor Practice Cases Filed in FY 2014

Unfair Labor Practice Charge Against Employer (CA)	105
Unfair Labor Practice Charge Against Labor Organization or Agents (CB)	23
Unfair Labor Practice Charge Contesting Fair Share Fees (FS)	64
Total	192

#### Agency Activity on All Unfair Labor Practice Cases for FY 2014

Withdrawn Pursuant to Settlement Agreement	71
Withdrawn	31
Executive Director's Recommended Decision and Order	49
ALJ's Recommended Decision and Order	11
Complaints issued	34
Cases mediated by Board Agents	26
Total	222

#### Board Activity 2014

Board Opinion & Orders	18
Final Orders	103
Total	121

Impasse Cases

The Board also processes impasse cases, where the parties engaged in collective bargaining, notified the Board of the status of their negotiations and at some point engaged 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 2014  
(July 1, 2013 – June 30, 2014)

<b>School County</b>	<b>Union Unit /No.</b>	<b>Notice Filed Date Settled</b>	<b>Strike Date Strike Days</b>
Waukegan SD #60	IFT, Waukegan Teachers LCFT #504, certified teachers, RTI coaches, nurses, perm. subs. (1238)	02/27/14	
U of I – Urbana	SEIU, Local 73 Service and Maintenance (600)	04/10/14	
U of I – Urbana	SEIU, Local 73 Technical Unit (800)	04/10/14	
U of I – Urbana	SEIU, Local 73 Clerical (1500)	04/10/14	
Harlem SD	IFT, Local 540 Teachers (534)	07/23/13 08/18/13 ratified	
DeKalb CUSD #428	DeKalb Classroom Teachers IFT, (402)	08/08/13 08/27/13 ratified	
Altamont CUSD#10	IEA, teachers (60)	09/12/13 09/25/13 TA	

<b>School County</b>	<b>Union Unit /No.</b>	<b>Notice Filed Date Settled</b>	<b>Strike Date Strike Days</b>
Beach Park SD #3	IEA (170)	10/03/13 10/21/13	
Mt. Olive CUSD 5	IEA f/t, p/t certified (40)	11/12/13 12/14/13	12/09/13 5 days
Crystal Lake HS Dist 155	IEA teachers	11/08/13 01/07/14	
Mendota Elementary	IEA teachers (79)	10/08/13 01/12/14	
Mt. Prospect SD #57	IEA/certified (160)	02/04/14 02/10/14	
McHenry HS D 156	IEA, certified (163)	12/18/13 02/27/14	
Central School Dist. #104	IFT/ teachers (43) and Non-cert staff (23)	02/05/14 02/27/14	
Sherrard SD 200	IEA/teacher, aide, sec, cook, custodian, transportation (185)	02/13/14 03/12/14	
Teutopolis CUSD #50	IEA/certificated (86)	02/05/14 03/20/14 03/27/14 ratified	
McHenry County College	IEA, Full-time teachers (106)	03/18/14 04/04/14	
North Boone SD 200	IEA, teachers (109)	12/13/13 02/26/14	
Univ. of IL at Chicago	IFT Local 6456/tenured& Tenure track faculty (720)	02/06/14 04/11/14 (renewed)	2/18/14 2 days
		back 2/20/14 05/09/14 ratified	

<b>School County</b>	<b>Union Unit /No.</b>	<b>Notice Filed Date Settled</b>	<b>Strike Date Strike Days</b>
Univ. of IL at Chicago	IFT Local 6456/non-tenure Faculty (420)	02/06/14 04/11/14 (renewed) back 2/20/14 05/09/14 ratified	2/18/14 2 days
Anna-Jonesboro CHS #81	IEA/teachers (50)	02/03/14 05/02/14	

**Total Notices Filed for FY2014:** 21  
**Total Strikes for FY 2014:** 3



## MAJOR BOARD AND COURT CASES

July 1, 2013 through June 30, 2014

### Unfair Labor Practices

#### Employer Unfair Labor Practices

##### Violation of Employee Rights

University of Illinois-Chicago/Richard, \_\_\_ PERI \_\_\_, Case No. 2013-CA-0055-C (IELRB Opinion and Order (IELRB Opinion and Order, September 23, 2013) (appeal pending)

The Charging Party engaged in union activity when the union filed grievances on her behalf. However, the Charging Party did not provide evidence that the Employer discharged or suspended her because of her grievances. Therefore, the IELRB dismissed the charge.

Chicago Board of Education/Gora, 30 PERI 91, Case No. 2011-CA-0058-C (IELRB Opinion and Order, October 17, 2013) (appeal pending)

The IELRB affirmed the Administrative Law Judge's determination that the Employer did not violate Section 14(a)(3) of the Act when his driver education hours at a particular high school were cut, when he was removed from his positions as attendance coordinator and technology coordinator, and when he was notified that he would be suspended for five days. The IELRB determined that the Charging Party did not present sufficient evidence that the Employer took those actions against him because of his union activity. The IELRB concluded that the Charging Party did not establish a prima facie case as to those allegations. The IELRB affirmed the Administrative Law Judge's determination that the Employer committed an unfair labor practice when it refused to hire the Charging Party for driver education work at another high school. However, the IELRB determined it was more probable that the driver education site monitor's statement to the driver education site director that the Charging Party could not work there at that time because there was a "lawsuit" between the Charging Party and the Employer referred to the Charging Party's grievance rather than his unfair labor practice charge. The IELRB determined that the allegation that the Charging Party was improperly denied driver education hours at the second high school was more properly characterized as an alleged violation of Section 14(a)(3) than of 14(a)(4). Therefore, the IELRB concluded that the Employer violated Section 14(a)(3) by refusing to hire the Charging Party for driver education work at the second high school, instead of violating Section 14(a)(4), as the Administrative Law Judge had found.

Southern Illinois University Carbondale/SIUC Faculty Association, IEA-NEA, 30 PERI 172, Case No. 2011-CA-0030-S (IELRB Opinion and Order, January 16, 2014)

The IELRB affirmed the Administrative Law Judge's conclusion that the Employer violated Sections 14(a)(3) and (1) of the Act by declining to appoint a faculty member as interim department chair. The IELRB determined that the Union had established a prima facie case, and that the Employer's alleged legitimate reason for its conduct was pretextual.

McLean County Unit District 5, a/k/a Board of Education of McLean County Unit District 5/Dellamano, 30 PERI 207, Case No. 2011-CA-0005-S (IELRB Opinion and Order, February 20, 2014) (appeal pending)

The IELRB affirmed the Administrative Law Judge's decision that the Employer violated Sections 14(a)(3) and 14(a)(1) of the Act by discharging the Complainant. The IELRB found that the Complainant had established a prima facie case, and that the alleged legitimate reasons asserted by the Employer were pretextual. The IELRB also found that the decision to recommend the Complainant's discharge was based on the actions of one of her supervisors, who was shown to have an improper motivation, and that this supervisor's improper motivation could be imputed to the Employer.

#### Refusal to Arbitrate

Harlem School District No. 122/Harlem Federation of Teachers, Local 540, IFT-AFT, AFL-CIO, 30 PERI 153, Case Nos. 2012-CA-0076-C, 2013-CA-0021-C (IELRB Opinion and Order, December 19, 2013)

In these consolidated cases, the Employer made certain changes. In Case No. 2012-CA-0076-C, the Union alleged that the Employer violated Sections 14(a)(5) and (1) of the Act by making these changes unilaterally. In Case No. 2013-CA-0021-C, the Union alleged that the Employer violated Section 14(a)(1) by refusing a grievance concerning most of these changes. The IELRB found that the grievance was contractually arbitrable and that the grievance was not inarbitrable under Section 10(b) of the Act due to a conflict with an Illinois statute. Therefore, the IELRB concluded that the Employer violated Section 14(a)(1) of the Act by refusing to arbitrate the grievance.

The IELRB refrained from ruling on most of the Union's allegations that the Employer violated Section 14(a)(5) and (1) by making unilateral changes. The IELRB determined that, if the matters at issue were covered by the collective bargaining agreements, the Employer violated Sections 14(a)(5) and (1) of the Act by making changes without the consent of the Union, even if the Employer offered to bargain and the Union refused. The IELRB further determined that, if the matters at issue were not covered by the collective bargaining agreements, the Employer did not violate Sections 14(a)(5) and (1), due to the fact that the Employer gave the Union notice and an opportunity to

bargain concerning those matters. The IELRB stated that the arbitrator's interpretation of the collective bargaining agreements would provide guidance as to whether the Employer's actions were covered by the collective bargaining agreements and whether they constituted any impermissible changes. The IELRB determined that certain conduct by the Employer that was not raised in the grievance was not covered by the collective bargaining agreement. The IELRB concluded that the Employer did not violate Sections 14(a)(5) and (1) of the Act with respect to this conduct because the Employer gave the Union notice and an opportunity to bargain before making its decision and the Union declined to bargain.

### Union Unfair Labor Practices

#### Duty of Fair Representation

Chicago Teachers Union, Local No. 1/IFT-AFT, AFL-CIO/Krzysztof Rudzinski, 30 PERI 144, Case No. 2012-CB-0003-C (IELRB Opinion and Order, November 21, 2013)

The IELRB determined that the Union did not violate its duty of fair representation by failing to advance certain grievances to arbitration. The IELRB rejected the employee's claim that the Union declined to take his grievances to arbitration because he was a frequent critic of Union leadership, finding that there was no evidence that the Union treated the employee differently from other employees because of that fact. The IELRB also found that the employee's charge was untimely with respect to other conduct by the Union of which the employee complained.

### Unfair Labor Practice Procedure and Related Issues

#### Failure to File Timely Answer

Chicago Board of Education/Green, 30 PERI 240, Case No. 2013-CA-0011-C (IELRB Opinion and Order, March 20, 2014)

The IELRB reversed the Administrative Law Judge's Recommended Decision and Order finding that the Employer had admitted the allegations of the complaint by failing to file a timely answer. The IELRB reasoned that the case involved issues of alleged surveillance as well as issues of alleged retaliation against an employee because of her union activity. The IELRB found that deciding the case on a technicality would deprive it of the opportunity to consider these important policy issues. The IELRB also found that there was no showing that the Complainant would be prejudiced by being required to prove her case at a hearing. The IELRB remanded the case for a hearing on the merits.

### Failure to Serve Exceptions

Chicago Teachers Union, Local No. 1, IFT-AFT/Douglas, \_\_ PERI \_\_\_\_, Case No. 2012-CB-0018-C (IELRB Opinion and Order, August 15, 2013)

The Charging Party did not attach a certificate of service to her exceptions or otherwise demonstrate that she served her exceptions. In addition, certain of the Charging Party's allegations in her exceptions were untimely. Accordingly, the IELRB struck the Charging Party's exceptions.

Chicago Board of Education/Zito, 30 PERI 97, Case No. 2013-CA-0036-C (IELRB Opinion and Order, October 17, 2013)

The Charging Party did not serve his exceptions or otherwise demonstrate that he served his exceptions. In addition, the exceptions were untimely filed. Accordingly, the IELRB struck the Charging Party' exceptions.

#### Exceptions Filed by Prevailing Party

Community Consolidated School District 46/Segobiano-Morris, 30 PERI 242, Case No. 2013-CA-0089-C (IELRB Opinion and Order, March 20, 2014)

The Respondent filed exceptions to the Executive Director's Recommended Decision and Order dismissing the unfair labor practice charge. The IELRB struck the exceptions and dismissed the charge. The IELRB stated that, under the IELRB's Rules, only the Charging Party may file exceptions to the Executive Director's dismissal of a charge, and that, if the Respondent's exceptions were granted, the outcome of the case would not change.

#### Motion to Stay

Harlem School District No. 122/Harlem Federation of Teachers, Local 540, IFT-AFT, AFL-CIO, \_\_ PERI \_\_\_\_, Case Nos. 2012-CA-0076-C, 2013-CA-0021-C (IELRB Order, February 20, 2014)

The Employer sought a stay of the IELRB's order that it engage in arbitration. The IELRB found that an immediate stay was not required in order to preserve the status quo without endangering the public, that granting a stay would be contrary to the public policies favoring arbitration of labor disputes and minimizing and providing for the resolution of disputes between educational employees and their employers, and that there was not a reasonable likelihood that the Employer would succeed on the merits. The IELRB also found that the arbitration of the Union's grievance would not conflict with the Employer's authority under the School Code, and that a denial of the Employer's motion to stay would not affect its appeal of the IELRB's action. Accordingly, the IELRB denied the Employer's motion to stay.

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