

STATE OF ILLINOIS  
EDUCATIONAL LABOR RELATIONS BOARD

ANNUAL REPORT

FISCAL YEAR 2016

One Natural Resources Way  
Springfield, Illinois 62702  
217/782-9068 (Phone)  
217/782-9331 (Fax)

160 North LaSalle Street, Suite N-400  
Chicago, Illinois 60601-3103  
312/793-3170 (Phone)  
312/793-3369 (Fax)

TTY: 1-800-526-0844 (Relay)  
Internet Address: <http://www.illinois.gov/elrb>  
Email: [ELRB.Mail@illinois.gov](mailto:ELRB.Mail@illinois.gov)

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Dear Governor Rauner:

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 2016. This report summarizes the work performed by the Board over the course of the Fiscal Year.

Fiscal Year 2016 was a productive year for the Illinois Educational Labor Relations Board. In addition to processing its normal caseload, the Board undertook a complete revision of its rules to make them more “user friendly” by eliminating duplication and outdated provisions and to bringing them into accord with current law. These changes were developed in consultation with the Board’s Advisory Committee, the Governor’s office and the Legislative Joint Committee on Administrative Rules (JCAR).

We expect to further enhance our online services throughout the upcoming years by upgrading our website to publish more Board Opinions and Orders, providing online fillable forms and delivering current information to the public through our website posting procedures. These objectives will be coordinated with the Illinois Department of Innovation and Technology (DOIT), the new technology agency under the Office of the Governor. Moreover, the Board intends to continue administering the Illinois Educational Labor Relations Act in a fair, prompt and efficient manner, as it explores new and creative ways to provide better future service to the public, while maintaining the high standards, quality of decisions and professional care that we have consistently provided to the public.

Thank you for your support and the opportunity to advance and improve labor relations within the public educational institutions of Illinois.

Sincerely yours,

Andrea R. Waintroob  
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 \$1,577,300 during Fiscal Year 2016. 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 must devote his entire time to the duties of the office and engage in no other work. During FY16, the Board was comprised of Chair Andrea Waitroob and Board Members Judy Biggert, Gilbert O'Brien, Michael Prueter and Lynne Sered.

## **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. The Board has the final appellate review 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 and Ethics 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; 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 a Recommended Decision 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:**

Andrea Waitroob, Chair  
Appointment 04/06/15

Judy Biggert  
Appointed 04/06/15

Gilbert O'Brien  
Appointed 06/20/11

Michael Prueter  
Appointed 04/13/15

Lynne O. Sered  
Appointed 04/13/15

**Andrea R. Waitroob, Chair**

Andrea R. Waitroob was appointed to serve as Chairman of the Illinois Educational Labor Relations Board by Governor Bruce Rauner in April, 2015.

Prior to her appointment, Chairman Waitroob represented Illinois public and private sector employers in all aspects of labor and employment law for over thirty-five years, including negotiating many collective bargaining agreements for educational employers in the State of Illinois. Additionally, she taught public sector labor relations, government regulation of the employment relationship and employment discrimination courses at the University of Chicago Booth School of Business and the University of Chicago Law School.

Ms. Waitroob began her legal career at Vedder, Price Kaufman and Kammholz in 1978, becoming a partner at that firm in 1984. In 1994, she was one of twelve founding partners of Franczek Radelet where she worked until her appointment to the Board.

Ms. Waitroob was a member of the Illinois Council of School Lawyers and served a term as Chair of the Council. She has been recognized as an Illinois Leading Lawyer, a Top Woman Lawyer and an Illinois Super Lawyer.

Ms. Waitroob received her BA, Magna Cum Laude from Brown University. She graduated with honors from the University of Chicago Law School where she was a member of the Law Review.

Ms. Waitroob is married and has two children. She resides in Deerfield.

## **Judy Biggert, Member**

Judy Biggert was appointed to the Illinois Educational Labor Relations Board in 2015 by Governor Bruce Rauner. She brings to the Board decades of experience as an elected representative, community leader and attorney.

Prior to her appointment to the Board, she served Illinois for fourteen years as a member of the U.S. House of Representatives and for six years as a member of the Illinois House of Representatives.

In Congress, she served on the House Education and Workforce Committee, overseeing federal education programs and initiatives from preschool through higher education. During her tenure, the Committee produced major reforms of the Elementary and Secondary Education Act (ESEA), the Higher Education Act, Early Childhood Education including Head Start, the Individuals with Disabilities Education Act (IDEA), and many others.

Mrs. Biggert was appointed Vice Chairman of the Committee's Subcommittee on Workforce Protections, and helped to oversee its work on the Fair Labor Standards Act (FLSA), the Workforce Investment Act (WIA), workers compensation, retirement security, and all matters related to employee-employer relationships.

She also served as a senior member of the Financial Services Committee, House Committee on Science and Technology, and Standards of Official Conduct "Ethics" Committee. She was voted by her colleagues as one of the "Top Ten Most Bipartisan" members of Congress.

In the Illinois House of Representatives, Mrs. Biggert served as the Minority Spokesman on the Judiciary – Civil Committee, and as a member of the Financial Institutions, Insurance, and Labor and Commerce Committees. She was appointed to House leadership at the start of her second term.

As a member of the Hinsdale Township High School District 86 Board of Education, Mrs. Biggert chaired the committee that negotiated contracts with the District's teachers. After serving five years as a member, she was elected and served one term as President of the Board.

Her work on behalf of the Chicago area community has included service as President or Chairman of: the Junior League of Chicago, Visiting Nurse Association, Hinsdale Assembly of the Hinsdale Hospital, Village of Hinsdale Plan Commission, Junior Board of Travelers Aid Society, Hinsdale Antique Show, and the Oak School PTA.

Mrs. Biggert served as law clerk to the Hon. Luther M. Swygert, U.S. Court of Appeals for the Seventh Circuit. Prior to her election to public office, she practiced law, specializing in real estate, estate planning and probate.

She received her BA from Stanford University and JD from the Northwestern University School of Law, where she was a member of the Law Review. She and her husband Rody are the parents of four children and the grandparents of nine. They reside in Hinsdale.

**Gilbert O’Brien, Member**

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 H. Prueter, Member**

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 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 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. He is a resident of Naperville.

**Lynne O. Sered, Member**

Lynne O. Sered was re-appointed to serve as a Board Member in April 2015. She previously served as Board Chairman of the Illinois Educational Labor Relations Board from June 2004 until stepping down immediately prior to her most recent re-appointment by Governor Bruce Rauner. Prior to assuming the Board Chair’s responsibilities in 2004, she served as a Board Member since her initial appointment to the Board in October 2000.

Ms. 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.

Ms. Sered lives with her husband Jeff Schoenberg and their two children in Evanston, Illinois.

### **Victor E. Blackwell, Executive Director**

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.

**Susan Willenborg, General Counsel**

Susan J. Willenborg is General Counsel at the Illinois Educational Labor Relations Board. She has been working at the IELRB since 1984, performing a wide variety of duties. Prior to working at the IELRB, she worked at the law firm of Jacobs, Burns, Sugarman & Orlove. She received her B.A. at Carleton College and her J.D. at the University of Chicago Law School.

## **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 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 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 2016**

**Representation Cases Filed in FY 2016:**

Petition to Determine Representative (RC)	20
Petition to Decertify Representative (RD)	7
Petition to Determine Unit (RS)	22
Petition to Determine Unit/Employer Filed (RM)	1
Voluntary Recognition Petition (VR)	0
Unit Clarification Petition (UC)	21
Amendment to Certification Petition (AC)	2
MIP Cases (includes RC and RS figures above/not added to total)	(39)
<b>Total</b>	<b>73</b>

**Agency Activity on Representation Cases for FY 2016:**

Certification of Representation	3
Certification of Results	2
Certification of Voluntary Representation	0
MIP Order of Certification	34
Withdrawal	11
Executive Director's Recommended Decision & Order	18
ALJ's Recommended Decision & Order	0
Elections/polls	11
Cases mediated by Board Agents	1
<b>Total</b>	<b>80</b>

**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 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.

### **Mediation Cases**

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 2016

### **Unfair Labor Practice Cases Filed in FY 2016:**

Unfair Labor Practice Charge Against Employer (CA)	106
Unfair Labor Practice Charge Against Labor Organization or Agents (CB)	27
Unfair Labor Practice Charge Contesting Fair Share Fees (FS)	58
<b>Total</b>	<b>191</b>

### **Agency Activity on All Unfair Labor Practice Cases for FY 2016:**

Withdrawn (including w/d by settlement)	82
Executive Director's Recommended Decision and Order	73
ALJ's Recommended Decision and Order	15
Complaints issued	63
Cases mediated by Board Agents	14
<b>Total</b>	<b>247</b>

### **Board Activity 2016:**

Board Opinion & Orders	21
Final Orders	100
<b>Total</b>	<b>121</b>

### 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. The parties must report on

the status of negotiations to the Board at 90, and 45 days prior to the beginning of the school year. Forty-five days prior to the beginning of school year, the Board will invoke mediation absent agreement of the parties to defer mediation.

### Strike Activity FY 2016 (July 1, 2015 – June 30, 2016)

<b>School County</b>	<b>Union Unit /No.</b>	<b>Notice Filed Date Settled</b>	<b>Strike Date Strike Days</b>
Prospect Heights SD 23	Prospect Hts, IEA/NEA Cert & non-cert. (150)	08/31/15 09/26/15	09/16/15 8 days, 8 make-up
Rock Valley College	RV Faculty #6211, IFT Professional (160)	08/31/15 09/21/15	09/16/15 4 days
McHenry CHS Dist 156	MCHS Educators, IEA/NEA Certified personnel (165)	09/11/15 10/09/15	10/01/15 7 days
East St. Louis SD 189	IFT, Local 1220 Teachers, clerical, psychologists, etc.	08/17/15 10/30/15	10/01/15 21 days (make up)
Yorkville CUSD 115	IEA/NEA Certified staff (408)	11/10/15 11/24/15	
Kaneland CUSD 302	IEA/NEA Certified, part & full time (357)	11/09/15 12/17/15	
Heartland College	Faculty, #6038, IFT-AFT FT Faculty (89)	11/16/15 11/20/15 TA 12/1/15 ratified	
Frankfort Unit Dist. 168	West Frankfort Teachers, Local 817, IFT Certified (120)	01/20/16 02/04/16 TA	

<b>School County</b>	<b>Union Unit /No.</b>	<b>Notice Fil Date Settled</b>	<b>Strike Date Strike Days</b>
Community CSD 41	Lake Villa, LCFT, IFT-AFT Certified teachers (180)	02/11/16 02/20/16 TA	
Altamont CUSD #10	Altamont Support IEA/NEA Non-certified (33)	04/07/16 04/18/16	
Univ. of Illinois-Urbana	Campus Faculty Assoc., AFT-IFT-AAUP #6546 Non-tenure faculty (500)	04/07/16 4/30/16 TA	04/19-20/16

**Total Notices Filed for FY2016:** 11  
**Total Strikes for FY2016:** 5



## **MAJOR BOARD AND COURT CASES**

**July 1, 2015 through June 30, 2016**

### **Representation Cases**

#### **Appropriate Bargaining Unit**

**Board of Trustees of Southern Illinois University on behalf of Southern Illinois University School of Medicine/AFSCME Council 31, 32 PERI 95, Case No. 2015-RS-0003-S (IELRB Opinion and Order, November 19, 2015)**

The IELRB determined that the petitioned-for bargaining unit, which would add employees at the Employer's Decatur facility to employees at the Employer's Springfield facility, was an appropriate unit. The IELRB noted that while there were some differences between employees at the two facilities, there was a significant community of interest between them. The IELRB also noted that the employees' desires favored the proposed bargaining unit. The IELRB also concluded that two employees were not confidential employees. The IELRB determined that the employees were not confidential employees under either the labor-nexus or access tests. The IELRB determined that the reasonable expectation test could be applied, but that the employees were also not confidential employees under the reasonable expectation test. The IELRB found that the employees would assist in collective bargaining only if they were placed in a bargaining unit separate from the Springfield bargaining unit. In addition, the IELRB determined that the fact that a previous order of certification excluded "all contractual civil service employees in remote locations" from the bargaining unit did not prevent employees at the Decatur facility from being added to the existing bargaining unit.

#### **Exclusions from the Definition of Educational Employee**

##### **Confidential Employee**

**Board of Trustees of Southern Illinois University on behalf of Southern Illinois University School of Medicine/AFSCME Council 31, 32 PERI 95, Case No. 2015-RS-0003-S (IELRB Opinion and Order, November 19, 2015) (see above)**

##### **Unfair Labor Practices**

##### **Employer Unfair Labor Practices**

##### **Violation of Employee Rights**

**Board of Trustees of the University of Illinois/Campus Faculty Association, Non-Tenure Track Local 6546, AAUP, IFT-AFT, AFL-CIO, 32 PERI 77, Case No. 2015-CA-0006-S (IELRB Opinion and Order, October 15, 2015) (appeal pending) (see below)**

**Moraine Valley Community College/Cook County College Teachers Union, Local 1600, IFT-AFT, AFL-CIO, 32 PERI 56, Case No. 2014-CA-0017-C (IELRB Opinion and Order, September 17, 2015) (appeal pending)**

The IELRB determined that the Employer violated Section 14(a)(3) of the Act by discharging the Union president because of a letter she wrote to a consortium of community colleges that was critical of the Employer's conduct toward the adjunct faculty. The IELRB noted that there is a broad scope of protection for statements made during the course of protected activity. The IELRB found that the employee was speaking in her role as Union president and voicing her opinions as shared by the Union's board and bargaining unit members. The IELRB further found that there was no evidence that the statements were deliberately or maliciously false or even reckless with regard to their truth or falsity.

**Chicago Board of Education/Phylis McGarr, 32 PERI 98, Case No. 2014-CA-0024-C (IELRB Opinion and Order, November 19, 2015)**

The IELRB concluded that a teacher did not establish a prima facie case that she was laid off because of her union activity. The IELRB found that there was no evidence of anti-union motivation on the part of the decision-maker. The IELRB found that any unlawful motivation on the part of the principal could not be imputed to the decision-maker because she conducted an independent analysis of whom to lay off. The IELRB determined that even if the teacher had established a prima facie case, the Employer did not violate the Act because it had a legitimate business reason for its action and it would have taken the same action in the absence of the teacher's union activity. The IELRB found that the school's budget had decreased significantly, and that an analysis of the teacher's endorsements and seniority showed that she was one of the employees who must be laid off.

**Refusal to Bargain in Good Faith**

**City Colleges of Chicago/Federation of College Clerical and Technical Personnel, Local 1708, IFT-AFT, AFL-CIO, 32 PERI 10, Case No. 2013-CA-0093-C (IELRB Opinion and Order, July 17, 2015) (appeal pending)**

The Employer implemented a new timekeeping system involving the collection and storage of pictures of portions of employees' fingerprints. The IELRB found that this was not a mandatory subject of bargaining, but that the Employer violated Section 14(a)(5) by failing to bargain the impact of its decision on employees' wages, hours, and terms and conditions of employment. The IELRB also found that the Employer violated Section 14(a)(5) of the Act by refusing to implement a grievance settlement. The IELRB referred the issue of a change in the calculation in overtime to arbitration.

**Board of Trustees of the University of Illinois/Campus Faculty Association, Non-Tenure Track Local 6546, AAUP, IFT-AFT, AFL-CIO, 32 PERI 77, Case No. 2015-CA-0006-S (IELRB Opinion and Order, October 15, 2015) (appeal pending)**

The IELRB decided that the Employer did not violate Section 14(a)(5) when it did not give members of a newly established bargaining units salary increments that it gave to non-bargaining unit employees before the issue was bargained.. The IELRB relied on the Employer’s past history of not giving salary increases to employees in newly established bargaining units until negotiations for the initial collective bargaining agreement were completed. The IELRB also decided that the Employer had not violated Section 14(a)(1). The IELRB found that there was no specific evidence of unlawful motivation and that the Employer did not engage in conduct which would predictably undermine statutory rights. Member Sered concurred with the dismissal of the complaint under the unique circumstances of the case.

**Refusal to Arbitrate**

**Board of Education of City of Chicago v. IELRB, et al., 2015 IL 1180043 (Dec. 17, 2015)**

The Supreme Court affirmed the decision of the Appellate Court reversing the decision of the IELRB, which found that the Employer had violated Section 14(a)(1) of the Act by refusing to arbitrate certain grievances. The grievances concerned the placement of “Do Not Hire” designations on the personnel files of certain nonrenewed probationary appointed teachers and the Employer’s failure to notify the teachers that it had done so. The Court determined that the grievances were not arbitrable because they did not relate to terms and conditions of employment, but rather to the Employer’s ability to initiate employment, which is a matter of inherent managerial policy. The Court stated that the broad definition of grievance in the collective bargaining agreement did not pertain to matters excluded from the bargaining process under the collective bargaining agreement, including the Employer’s ability to make hiring decisions. The Court further determined that, even if the collective bargaining agreement could be read to require that the grievances be arbitrated, they were inarbitrable under Section 10(b) of the Act due to conflicts with Section 4 of the Act and the School Code. The Court found that the grievances conflicted with the Employer’s statutory authority to refuse to rehire probationary teachers.

Justice Kilbride dissented. Justice Kilbride would have found that the grievances were contractually arbitrable and were also arbitrable under Section 10(b) of the Act. Justice Kilbride viewed the grievances as alleging violations of procedural requirements in the collective bargaining agreement.

**Big Hollow School District No. 38/Big Hollow Federation of Teachers, Lake County Federation of Teachers, Local 504, IFT-AFT, AFL-CIO, 32 PERI 59, Case No. 2014-CA-0067-C**

The IELRB dismissed a complaint alleging that the Employer violated Section 14(a)(1) of the Act by refusing to arbitrate a grievance. The IELRB found that the grievance concerned a period when the individual involved was not an educational employee. The IELRB determined that the individual met both parts of the definition of short-term employee. The IELRB found that the individual taught for a period of less than six consecutive calendar months during an educational calendar year, and that the individual had no reasonable expectation that he would be rehired by the Employer for the same service in a subsequent calendar year.

**Refusal to Comply with a Binding Arbitration Award**

**Other Unfair Labor Practices**

**Refusal to Comply with a Settlement Agreement**

**Cicero School District 99/West Suburban Teachers Union, Local 571, IFT/AFT, \_\_\_ PERI \_\_\_, Case No. 2007-CA-0053-C (IELRB Opinion and Order, January 21, 2016)**

The IELRB determined that the Employer did not violate the Act by failing to follow a settlement agreement. The IELRB found that the Employer complied with the settlement agreement. The IELRB also determined that the Employer was not entitled to file exceptions to the Executive Director's dismissal of the unfair labor practice charge.

**Union Unfair Labor Practices**

**Duty of Fair Representation**

**Mundelein Education Association, IEA-NEA/Michelle Kierna, 32 PERI 23, Case No. 2015-CB-0005-C (IELRB Opinion and Order, July 16, 2015)**

The Union notified the Charging Party that it had filed a class action grievance, but the Charging Party complained that she was not offered the opportunity to file an individual grievance. The IELRB found that whether the Charging Party had declined individual Union representation, as the Union claimed, did not determine whether there was intentional misconduct. The IELRB further found that even if there had been an unreasonable delay, that would not demonstrate intentional misconduct. The IELRB determined that there had been no intentional misconduct and no violation of Section 14(b)(1) of the Act.

**Local Education Association of District 300, IEA-NEA/La Vanda Wheeler, 32 PERI 66, Case No. 2015-CB-0015-C (IELRB Opinion and Order, September 17, 2015)**  
(appeal pending)

The Employer and the Union signed an agreement in January 2013 under which the Charging Party would resign her position effective June 30, 2014. The Charging Party also asserted that she asked for the Union's help in June 2014. The IELRB found that the charge was untimely with respect to the Union's conduct at or before the Employer and the Union signed the January 2013 agreement. The IELRB found that the charge was timely with respect to the Union's conduct during or after June 2014, but that the Charging Party had not shown intentional misconduct as to the timely portion of the charge. Accordingly, the IELRB dismissed the charge.

**SEIU, Local 73/Ann Kindle, \_\_ PERI \_\_, Case No. 2015-CB-0020-C (IELRB Opinion and Order, January 21, 2016)**

The IELRB determined that the Union did not violate its duty of fair representation with respect to the Charging Party's exposure to toxic fumes. The IELRB found that the Union had not engaged in intentional misconduct.

### **Unfair Labor Practice Procedure and Related Issues**

#### **Claims Beyond Scope of Act**

**Waukegan Community Unit School District 60/Ann Kindle, \_\_ PERI \_\_, Case No. 2016-CA-0004-C (IELRB Opinion and Order, December 18, 2015)**

The IELRB dismissed the Charging Party's charge claiming that the Employer violated the Act by exposing her to toxic fumes. The IELRB determined that the Charging Party's claim that the Employer violated the collective bargaining agreement did not constitute an unfair labor practice, and that whether the Charging Party was deprived of rights under OSHA regulations was beyond the purview of the IELRB. The IELRB also determined that the unfair labor practice charge was untimely. The IELRB rejected the Charging Party's claim that there was an ongoing occurrence.

#### **Timely Filed**

**Local Education Association of District 300, IEA-NEA/La Vanda Wheeler, 32 PERI 66, Case No. 2015-CB-0015-C (IELRB Opinion and Order, September 17, 2015)**  
(appeal pending) (see above)

**Community Unit School District 300/La Vanda Wheeler, 32 PERI 57, Case No. 2014-CA-0040-C (IELRB Opinion and Order, September 17, 2015)** (appeal pending)

The Charging Party signed an agreement in January 2013 providing that she was resigning her position effective June 30, 2014. She filed her charge on December 2, 2014. The IELRB found that the charge was untimely. The IELRB rejected the

Charging Party's arguments that she did not understand the effects of the resignation agreement on her future employment applications, that she did not know of the existence of the IELRB, and that she had made unsuccessful attempts to retain an attorney.

**Oakton Community College/Chester Kulis, 32 PERI 79, Case No. 2015-CA-0036-C (IELRB Opinion and Order, October 15, 2015)**

The IELRB determined that the charge was untimely. The IELRB found that the Charging Party knew or had reason to know that he would not be rehired when he received the Employer's letter. The IELRB rejected the Charging Party's arguments that the period for filing a charge began to run on the date the Employer's refusal to rehire him became effective or on the date he learned of the outcome of the grievance.

**Waukegan Community Unit School District 60/Ann Kindle, \_\_ PERI \_\_, Case No. 2016-CA-0004-C (IELRB Opinion and Order, December 18, 2015) (see above)**

**Filing Exceptions to Dismissal of a Charge**

**Cicero School District 99/West Suburban Teachers Union, Local 571, IFT/AFT, \_\_ PERI \_\_, Case No. 2007-CA-0053-C (IELRB Opinion and Order, January 21, 2016) (see above)**

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