

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD



ANNUAL REPORT

FISCAL YEAR 2019

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ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

September 12, 2019

Dear Governor Pritzker:

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 2019. This report summarizes the work performed by the Board over the course of the Fiscal Year.

Fiscal Year 2019 was a productive year for the Illinois Educational Labor Relations Board. We have streamlined our case management procedures which increased productivity and case assignment turnaround time. We successfully transitioned to electronic filings of complaints and petitions by offering public access to our agency's mailbox found at our website. We plan to further the development of our website by offering enhanced features as provided by the Illinois Department of Innovation and Technology (DoIT). Additional anticipated future innovations include our plan to provide fillable forms downloadable to our office and posting all Board Opinion and Orders on our website. We look to further advance our mediation services as a viable process for the parties to resolve unfair labor practice disputes and issues more economically.

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 educational labor relations community, while maintaining the high standards, quality of decisions and professional expertise that we have consistently provided over the years.

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

Sincerely yours,


Andrea R. Waintroob
Chairman

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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 public 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 received an appropriated budget of \$1,852,500.00 for Fiscal Year 2019. The Illinois Educational Labor Relations Board receives its funding from the Personal Property Tax Replacement 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 compensated work. During FY19, the Board was comprised of Chair Andrea Waitroob and Board Members Judy Biggert, Gilbert O'Brien, Lara Shayne 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 Waintroob, Chair
Appointment 04/06/15 to 06/01/20

Judy Biggert
Appointed 04/06/15 to 06/01/20

Gilbert O'Brien
Appointed 08/01/16 to 06/01/22

Lara Shayne
Appointed 09/19/16 to 06/01/22

Lynne O. Sered
Appointed 04/13/15 to 06/01/20

Andrea R. Waintroob, Chair

Andrea R. Waintroob 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 Waintroob 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. Waintroob 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. Waintroob 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. Waintroob 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. Waintroob 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.

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.

Lara Shayne, Board, Member

Lara Shayne was appointed to the Illinois Educational Labor Relations Board by Governor Bruce Rauner in September 2016.

Ms. Shayne has been a labor and employment attorney since 1996, and has worked in all labor and employment practice areas, including negotiating and implementing collective bargaining agreements with numerous public employee unions, and handling grievance arbitrations and IELRB litigation. She began her legal career as an Assistant Corporation Counsel for the Labor/Employment Division of the City of Chicago Department of Law. In 2002, she left the City to join the labor practice group of the Board of Education of the City of Chicago's Law Department. In 2012, Ms. Shayne was selected to help run the Board of Education's Labor Relations unit, where she remained until her appointment to the IELRB.

Ms. Shayne received her BA from the University of Michigan and her J.D. from Chicago-Kent College of Law, where she was a member of Moot Court.

Ms. Shayne is married with two children. She resides in Chicago.

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 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 2019

Representation Cases Filed in FY 2019:

Petition to Determine Representative (RC)	8
Petition to Decertify Representative (RD)	2
Petition to Determine Unit (RS)	33
Petition to Determine Unit/Employer Filed (RM)	0
Voluntary Recognition Petition (VR)	1
Unit Clarification Petition (UC)	27
Amendment to Certification Petition (AC)	3
MIP Cases (includes RC and RS figures above/not added to total)	(40)
Total	74

Agency Activity on Representation Cases for FY 2019:

Certification of Representation	4
Certification of Results	1
Certification of Voluntary Representation	1
MIP Order of Certification	36
Withdrawal	3
Executive Director's Recommended Decision & Order	35
ALJ's Recommended Decision & Order	4
Elections/polls	5
Cases mediated by Board Agents	0
Total	89

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 will 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 any time during the unfair labor practice charge process. During mediation, both the charging party and respondent 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 has successfully used mediation to resolve disputes in an amicable manner often avoiding the more costly and adversarial process of litigation.

Unfair Labor Practice Cases 2019

Unfair Labor Practice Cases Filed in FY 2019:

Unfair Labor Practice Charge Against Employer (CA)	84
Unfair Labor Practice Charge Against Labor Organization or Agents (CB)	20
Unfair Labor Practice Charge Contesting Fair Share Fees (FS)	1
TOTAL	105

Agency Activity on All Unfair Labor Practice Cases for FY 2019:

Withdrawn (including w/d by settlement)	73
Executive Director's Recommended Decision and Order	43
ALJ's Recommended Decision and Order	10
Complaints issued	36
Cases mediated by Board Agents	4
TOTAL	166

Board Activity FY 2019:

Board Opinion & Orders	19
Final Orders	90
TOTAL	109

IM Cases

In IM cases, parties engaged in collective bargaining may initiate the public posting process. The parties then submit their most recent offers to the Board and the Board subsequently posts the offers on its website pursuant to Section 12(a-5) of the Act.

Parties engaged in collective bargaining shall notify the Board concerning the

status of negotiations if they have not reached an agreement by 90 days before the school year starts and again if they have not reached agreement by 45 days before the school year starts. Upon request of a party, the Board shall invoke mediation if mediation has not already been initiated.

Strike Activity FY 2019
(July 1, 2018 – June 30, 2019)

School County	Union Unit /No.	Notice Filed Date Settled	Strike Date Strike Days
Winnebago CUSD #323	IEA-NEA Teachers (106)	05/02/18 08/30/18	
Murphysboro CUSD #186	IEA-NEA Teachers (151)	09/21/18 10/09/18	
East Aurora SD 131	Local 604, AFT FT Certified Staff	09/24/18 10/04/18	
East Aurora SD 131	Local 604, AFT FT Classified employees	09/24/18 10/04/18	
East Aurora SD 131	Local 604, AFT FT Office staff	09/24/18 10/04/18	
Geneva CUSD 304	IEA-NEA Teachers (465)	10/04/18 12/11/18	12/04/18 - 12/10/18 5 days
University of IL Health (7 Locations)	IL Nurses Association LPNs (35)	11/02/18	11/15/18 – 11/19/18 (strike suspended)
	IL Nurses Association LPN's (35)	06/19/19 07/01/19	
Champaign CSD #4	Champaign Fed. of Teachers IFT-AFT (850)	11/15/18 11/27/18	
Township District 211	NW Suburban Teachers, IFT- AFT, Local 1211 Teachers, professionals (1100)	11/08/18 12/17/18	

School	Union Unit /No.	Notice Filed Date Settled	Strike Days Strike Days
City Colleges of Chicago	CCCTU/Local 1600, IFT- AFT Professionals (957)	01/14/19 01/28/19	
University of Illinois-Chicago	Graduate Employees Organization (1600 grad assts & teaching assistants)	03/01/19 04/05/19	03/19/19 – 04/05/19 15 days
City Colleges of Chicago	Federation of College & Technical Employees, Local 1708, IFT-AFT, AFL-CIO Full & part-time employees (450)	03/22/19 05/02/19	05/01/19-05/01/19 1 day
University of Illinois-Chicago	UIC United Faculty Local 6456, IFT-AFT, AAUP Non tenure track faculty (450)	04/11/19 04/22/19	
University of Illinois-Chicago	UIC United Faculty Local 6456, IFT-AFT, AAUP Tenured track faculty (750)	04/11/19 04/22/19	

Total Notices Filed for FY 2019: 14
Total Pending for FY 2019: 0
Total Settled for FY 2019: 14

MAJOR BOARD AND COURT CASES

July 1, 2018 through June 30, 2019

FISCAL YEAR 2019 CASES

representation cases

Exclusions from Status as Educational Employee

Managerial Employee

- **Chicago Board of Education/Chicago Teachers Union, IFT-AFT, AFL-CIO, 35 PERI 109, Case No. 2018-RS-0019-C (IELRB Opinion and Order, December 20, 2018)**

The IELRB determined that College and Career Specialists were not managerial employees. The IELRB found that the College and Career Specialists did not perform executive or management functions because their functions merely involved professional discretion and technical expertise and were advisory and subordinate. The IELRB stated that even assuming the College and Career Specialists engaged in executive and management functions, they did not predominantly engage in such functions. The IELRB also found that the College and Career Specialists were not charged with the responsibility of directing effectuation of management policies and practices. The IELRB determined that the College and Career Specialists did not have the independent authority to establish and effectuate policy, and that the evidence did not establish that they independently made policy recommendations or that any such recommendations they might make were almost always implemented.

Confidential Employee

- **East St. Louis School District #189, 35 PERI 24, Case No. 2018-UC-0010-C (IELRB Opinion and Order, July 19, 2018) (see below)**
- **Oak Park Elementary School District #97, 35 PERI 83, Case No. 2018-UC-0013-C (IELRB Opinion and Order, November 15, 2018)**

The IELRB granted the Employer's unit clarification petition seeking to exclude two positions from the bargaining unit as confidential. The IELRB determined that the individuals were confidential employees under both the labor-nexus test and the authorized access test. The IELRB found that the Assistant Superintendent for Human Resources, who admittedly formulated, determined, and effectuated management policies with regard to labor relations, asked the individuals for information for the purpose of negotiations. The IELRB reasoned that the individuals had authorized access ahead of time to confidential information they provided to the Employer's negotiators for the purpose of collective bargaining and thus knew what information the Employer was considering. The IELRB noted that the individuals had the same duties, and that the reason one of the individuals had not been directly involved in contact negotiations was that the collective bargaining agreements for the bargaining units to which she was assigned had not been up for renewal.

Unit Clarification

- **East St. Louis School District #189, 35 PERI 24, Case No. 2018-UC-0010-C (IELRB Opinion and Order, July 19, 2018)**

The Union filed a unit clarification petition seeking to add a position to an existing bargaining unit. The IELRB found that the determinative date was not the date the job description for the position was revised, but the date the new duties were given to the position. The IELRB determined that the lapse of time which determined whether the position was newly created or recently and substantially changed when the petition was filed was approximately 16 months. The IELRB concluded that the unit clarification petition was untimely. The IELRB determined that because the Union withdrew its original unit clarification petition and filed a new petition, rather than amending the original petition, the filing date of the original petition did not apply. The IELRB noted that the statutory deadline for the IELRB to rule on the original unit clarification petition had long passed, but that this deadline appeared to be directory, rather than mandatory. A majority of the IELRB also stated that even treating the petition as timely, it would still be required to dismiss the petition on the basis that the individual at issue was a confidential employee. The majority found that the individual was a confidential employee under the authorized access test. Board Member Sered concurred. She would not have reached the issue of whether the individual was a confidential employee.

Unfair Labor Practices

Employer Unfair Labor Practices

Violations of Employee Rights

- **Board of Trustees of Southern Illinois University Carbondale, 35 PERI 75, Case No. 2017-CA-0017-C (IELRB Opinion and Order, October 23, 2018) (appeal pending)**

An employee requested an informal meeting in accordance with the procedure in the collective bargaining agreement. The Employer did not respond, and the employee did not advance the grievance further. The IELRB determined that the evidence did not show that the Employer failed to respond to the employee's grievance because of the employee's protected activity. The IELRB considered the possibility that the Employer's failure to respond to the grievance could violate Section 14(a)(1) without a showing of improper motivation. However, the IELRB concluded that under the facts in the case, the Employer's failure to respond to the grievance did not amount to a failure to process it. The IELRB found that under the collective bargaining agreement and actual practice, it was the responsibility of the party filing the grievance to advance the grievance to the next level when the Employer did not respond to it. The IELRB also found that the employee's claim that he was not provided information he requested was not contained in the complaint and was not raised before the Administrative Law Judge. The IELRB concluded that it could not consider this claim.

- **Southern Illinois University Carbondale, 35 PERI 108, Case Nos. 2018-CA-0005-C, 2018-CA-0039-C (IELRB Opinion and Order, December 20, 2018)** (appeal pending)

The IELRB determined that the Employer did not violate the Act by placing an employee on unpaid administrative leave or terminating his employment. The IELRB found that the employee had not established that the Employer did not provide evidence of a causal connection between his protected activity, Union activity or involvement in proceedings before the IELRB and the Employer's actions. The IELRB also found that the employee had not established that the Employer's conduct was inherently destructive of employee rights. The IELRB also determined that the employee, as an individual employee, did not have a statutory right to arbitrate his grievance. The IELRB found that the employee's claim that the Employer refused to comply with an arbitration award was untimely.

- **Maywood-Melrose Park-Broadview SD 89/Lee, 35 PERI 160, Case No. 2018-CA-0066-C (IELRB Opinion and Order, April 25, 2019)** (appeal pending)

The IELRB rejected individual Charging Party's contention, Employer violated IELRA provisions by implementing a remediation plan without prior negotiations with the Union. The IELRB found that the Charging Party could not demonstrate a violation of IELRA Section 14(a)(1), absent evidence that the Employer placed her on a remediation plan in response to any Union or concerted activity on her part.

Domination or Interference with a Labor Organization

- **Pleasant Plains CUSD No. 8/Carter and Reedich, 35 PERI 176, Case No. 2018-CA-0064-C (IELRB Opinion and Order, May 16, 2019)**

In a case heard by an ALJ but removed to the Board for decision subsequent to the hearing, the IELRB found that the Employer violated Section 14(a)(2) by recognizing and dealing with an informal employee organization, the "New Association", as the exclusive representative of its support staff without the IELRB's certification and without using the IELRB's processes. It also determined that the district violated those statutory provisions by providing the "New Association" with unlawful assistance. The IELRB did not find a violation of Section 14(a)(7).

Refusal to Bargain in Good Faith

- **Western Illinois University, 35 PERI 60, Case No. 2017-CA-0001-S (IELRB Opinion and Order, September 24, 2018)** (appeal pending)

The IELRB determined that the Employer violated Section 14(a)(5) when it unilaterally laid off certain employees. The IELRB found that the Employer did not give the Union notice or an opportunity to bargain before announcing its decision to lay off the employees. The IELRB determined that economically motivated layoffs are a mandatory subject of bargaining. The IELRB found that the Employer was not excused from the duty to bargain due to an economic exigency where there would have been time to bargain before the Employer announced its decision to lay off the employees. The IELRB determined that the Employer also violated Section 14(a)(5)

when it failed to give the Union a meaningful opportunity to bargain the effects of its decision before the decision was implemented.

- **Rock Valley College Support Staff, Local 6569, IFT-AFT, AFL-CIO/Rock Valley College, 35 PERI 150, Case Nos. 2017-CA-0031-C & 2017-CA-0045-C (IELRB Opinion and Order, March 21, 2019)**

The IELRB found that the Employer violated Section 14(a)(5) by altering the status quo regarding campus closures. The IELRB majority decided that despite this, the Employer did not violate the Act by implementing its last, best, and final offer before reaching impasse, citing that negotiations had reached a standstill and the Union's lack of effort to reach an agreement. IELRB Member Sered dissented in part, indicating that she would have deferred to the ALJ's finding of a violation with respect to the declaration of impasse.

- **Maywood-Melrose Park-Broadview SD 89/Lee, 35 PERI 160, Case No. 2018-CA-0066-C (IELRB Opinion and Order, April 25, 2019) (appeal pending) (see above)**

Refusal to Arbitrate

- **City Colleges of Chicago, District 508/City Colleges Contingent Labor Organizing Committee, IEA-NEA, 35 PERI 119, Case No. 2018-CA-0012-C (IELRB Opinion and Order, January 17, 2019) (appeal pending)**

The IELRB determined that the Employer violated Section 14(a)(1) by refusing to re-arbitrate a grievance where the original award was found not to be binding because of a procedural error by the arbitrator. The IELRB determined that its decision in the prior case did not terminate litigation on the grievance and that it was not necessary for the IELRB to have ordered re-arbitration in the prior case.

Violating the Rules Regarding the Conduct of a Representation Election

- **Pleasant Plains CUSD No. 8/Carter and Reedich, 35 PERI 176, Case No. 2018-CA-0064-C (IELRB Opinion and Order, May 16, 2019)**

Refusal to Comply with Arbitration Award

- **Western Illinois University/University Professionals of Illinois, Local 4100, IFT-AFT, AFL-CIO, 35 PERI 133, Case No. 2018-CA-0045-C (IELRB Opinion and Order, February 21, 2019) (appeal pending)**

An arbitrator issued an award concerning the layoff of several employees. The arbitrator determined that the Employer had not met the contractual requirements as to some of the employees. In his award, the arbitrator retained jurisdiction to resolve issues regarding the implementation of the award. The arbitrator later conducted another hearing and issued a supplemental arbitration award, in which he found that the Employer had not met the contractual requirements as to two employees. The Employer did not comply with the supplemental award. The IELRB determined that the arbitrator had the authority to issue the supplemental award. The IELRB stated that the arbitrator had found that the Employer did not comply with the original award as to those two employees, and that the arbitrator's findings of fact supported a conclusion that the Employer did not comply with the original award as to those two

employees. The IELRB concluded that the Employer violated Section 14(a)(8) by failing to comply with both the original and the supplemental arbitration awards.

- **City Colleges of Chicago/Cook County College Teachers Union, Local 1600, IFT-AFT, AFL-CIO, 36 PERI 1, Case No. 2015-CA-0101-C (IELRB Opinion and Order, June 20, 2019)**

The IELRB affirmed an ALJ's ruling that the Employer did not violate IELRA Section 14(a)(8) by refusing to comply with the back pay portion of an arbitration award. The IELRB decided that this portion of the arbitrator's award was not binding because the arbitrator improperly ordered backpay after informing the Employer that the Union was not seeking such an award. The IELRB reasoned that, because the Employer's counsel relied on the arbitrator's statement, the Employer was effectively deprived of the opportunity to present evidence regarding a backpay award.

Union Unfair Labor Practices

- **Southern Illinois University Carbondale Faculty Association, IEA-NEA/Bakul Dave, 35 PERI 134, Case No. 2018-CB-0009-C (IELRB Opinion and Order, February 21, 2019) (appeal pending)**

The IELRB affirmed the Executive Director's dismissal of an unfair practice charge alleging that the Union violated IELRA by refusing to process the Charging Party's grievances. It found that the Union acted within its wide range of authority and that the Union did not engage in retaliatory or discriminatory conduct towards the Charging Party.

Unfair Labor Practice Procedures

Timely Filed

- **Southern Illinois University Carbondale, 35 PERI 108, Case Nos. 2018-CA-0005-C, 2018-CA-0039-C (IELRB Opinion and Order, December 20, 2018) (appeal pending) (see above)**
- **Minooka Education Association, IEA-NEA/Minooka CHSD #111, 35 PERI 167, Case No. 2018-CA-0053-C (IELRB Opinion and Order, April 29, 2019)**

The IELRB reversed the Executive Director's recommended deferral of an unfair practice charge to arbitration. In the charge, the Union alleged that the Employer violated IELRA provisions by refusing to grant a bargaining unit member a certain number of authorized sick days from the voluntary sick leave bank. The IELRB held that the charge was untimely filed over six months after the date the Employer altered its policy pertaining to voluntary sick leave days

Failure to Serve Exceptions

- **Homewood School District 153, 35 PERI 58, Case No. 2018-CA-0063-C (IELRB Opinion and Order, September 20, 2018)**

The IELRB struck the Charging Party's exceptions because she did not provide a certificate of service or any other evidence that she served her exceptions on the Employer.;

- **Homewood Education Association, IEA-NEA, 35 PERI 76, Case No. 2018-CB-0016-C (IELRB Opinion and Order, October 23, 2018)**

The IELRB struck the Charging Party's exceptions because she did not provide a certificate of service or any other evidence that she served her exceptions on the Union.

