STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Geneva Education Association, IEA-NEA, Charging Party	)	
and	)	Case No. 2019–CA–0080–C
Geneva Community Unit School District 304, Respondent	)	

OPINION AND ORDER

I. Statement of the Case

On June 7, 2019, Geneva Education Association, IEA-NEA (Union or Complainant) filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (Board or IELRB) against Geneva Community Unit School District 304 (Respondent or District or Employer). Following an investigation of the charge, the IELRB's Executive Director issued a Complaint and Notice of Hearing (Complaint) alleging that the District committed unfair labor practices in violation of Section 14(a)(3) and, derivatively, (1) of the Illinois Educational Labor Relations Act (Act or IELRA), 115 ILCS 5/1, *et seq.*, by refusing to make up instructional days lost during a strike in retaliation for the strike.[1] The parties appeared for hearing before an Administrative Law Judge (ALJ). The ALJ issued a Recommended Decision and Order (ALJRDO) dismissing the Complaint in its entirety. The Union filed the following exceptions to the ALJRDO: (1) the ALJ improperly recommended dismissal of a claim the Union did not make; (2) the ALJ incorrectly dismissed the 14(a)(3) claim without analyzing whether the Union made a prima facie case; and (3) the ALJ incorrectly determined that the District had legitimate business reasons for its refusal to make up the strike days. The District filed a response to the exceptions. For the reasons discussed below, we affirm the dismissal of the Complaint.

[1] The Executive Director issued a recommended decision and order dismissing the portion of the charge alleging that the District violated Section 14(a)(5) by refusing to provide information.

II. Factual Background

We adopt the ALJ's finding of facts as set forth in the underlying ALJRDO. Because the ALJRDO comprehensively set forth the factual background for the case, we will not repeat the facts herein.

III. Discussion

A. 14(a)(1)

Employers are prohibited by Section 14(a)(1) of the Act from "interfering, restraining, or coercing employees in the exercise of the rights guaranteed under this Act." 115 ILCS 5/14(a)(1). In Section 14(a)(1) cases where there is no adverse action, but involving employer conduct such as threats, the IELRB applies an objective test.[2] *Neponset CUSD No. 307*, 13 PERI 1089, Case No. 96-CA-0028-C (IELRB Opinion and Order, July 1, 1997). Under this test, it must be evaluated whether the employer's conduct would reasonably have had the effect of coercing, restraining, or interfering with the exercise of protected rights and there is no requirement of proof that the employees were actually coerced or that the employer intended to coerce the employees. *Peoria School District No. 150 v. IELRB*, 318 III. App. 3d 144, 741 N.E.2d 690 (4th Dist. 2000); *Hardin County Education Association, IEA-NEA v. IELRB*, 174 Ill. App. 3d 168, 528 N.E.2d 737 (4th Dist. 1988); *Southern Illinois University*, 5 PERI 1077, Case No. 86-CA-0018-S (IELRB Opinion and Order, April 4, 1989).

In this case, the Complaint alleged only that the District violated Section 14(a)(3) and, derivatively, (1). There was no independent violation of Section 14(a)(1) in the Complaint, nor did the Union move to amend the Complaint to include such an allegation. Furthermore, the objective test is not appropriate here because the Complaint alleged that the District took adverse action by its refusal to make up strike days. Yet even if the ALJ's application of the objective test was not necessary, it does not warrant overturning the ALJRDO. Particularly when

[2] In 14(a)(1) cases where retaliation is alleged, in order to determine whether the action complained of in fact "restrains, interferes or coerces," the analysis must necessarily track that used in cases arising under Section 14(a)(3), concerning the exercise of the right to engage in union activity. *Neponset*, 13 PERI 1089.

the Union does not quarrel with the ALJ's finding that the District did not violate Section 14(a)(1) under the objective test.

B. 14(a)(3)

Section 14(a)(3) of the Act prohibits educational employers, their agents, or representatives from "[d]iscriminating in regard to hire or tenure of employment or any term or condition of employment to encourage or discourage membership in any employee organization." In order to establish its prima facie case of a 14(a)(3) violation, the complainant must prove by a preponderance of the evidence, that the employee engaged in union activity, the respondent was aware of that activity, and the respondent took adverse action against the employee for engaging in that activity based, in whole or in part, on anti-union animus, or that union activity was a substantial or motivating factor. *Speed Dist. 802 v. Warning*, 242 Ill. 2d 92, 950 N.E.2d 1069 (2011); *City of Burbank v. Illinois State Labor Relations Board*, 128 Ill. 2d 335, 345–346, 538 N.E.2d 1146, 1149–1150 (1989); *Bloom Township High School v. IELRB*, 312 Ill. App. 3d 943, 957, 728 N.E.2d 612, 624 (1st Dist. 2000). Once the complainant establishes its prima facie case, the burden shifts to the respondent to demonstrate, by a preponderance of the evidence, that it had a legitimate business reason for its actions and that the employee would have received the same treatment absent their union activity. *City of Burbank*, 128 Ill. 2d 335, 538 N.E.2d 1146. Merely proffering a legitimate business reason for the adverse employment action does not end the inquiry, as it must be determined whether the proffered reason is bona fide or pretextual. *Id.* If the proffered reasons are merely litigation figments or were not, in fact relied upon, then the respondent's reasons are pretextual and the inquiry ends. *Id.* However, when legitimate reasons for the adverse employment action are advanced and are found to be relied upon at least in part, then the case may be characterized as a "dual motive" case, and the respondent must establish, by a preponderance of the evidence, that the action would have been taken notwithstanding the employee's union activity. *Id.*

When the employees in this case participated in the strike, they engaged in activity protected by Section 14(a)(3). Pursuant to Section 13 of the Act, strikes are lawful concerted activities within the meaning of Section 3 of the Act. It is undisputed that the District was aware of the strike. The question is whether the District's bargaining proposal to make up only one of the five instructional days lost to the strike was adverse employment action and if so, whether it was

done in retaliation for the strike. Despite its contention that the ALJ's 14(a)(3) analysis was lacking, the Union's exceptions gloss over the issue of whether the District's proposal was adverse action. For the District to come away from the bargaining table in the best possible condition, it proposed that none of the days be made up, then conceding to make up one day. The District is entitled to make a proposal and not obligated to concede completely to the Union's demands. Just as the Union was not obligated to concede to the District's proposal of one make-up day. The Union could have continued to bargain the matter at the table, but instead agreed and now seeks to obtain its original proposal of making up all days by filing this charge. To call the District's bargaining proposal adverse action and allow the Union to circumvent the bargaining process by filing an unfair labor practice would be contrary to the purpose of the Act and would weaken the notion of meaningful collective bargaining. It would allow a labor organization, unhappy with an employer's bargaining proposal, to agree to what the employer proposes at the table but file an unfair labor practice charge after the bargaining agreement is ratified that would undo what it had agreed to. It would be counterintuitive to the spirit of the Act to let a labor organization use the Board's processes rather than collective bargaining to gain favorable terms and conditions of employment for the bargaining unit. Accordingly, we find that the District's bargaining proposal regarding make-up days was not adverse employment action.

Even if the proposal was adverse action, Petrarca's statement, although in some context could be taken as evidence of animus, is not animus here. Taken in the context that it was made, during prolonged negotiations to explain the District's position on its proposal, the statement is not the type of expressions of hostility the Board finds to be per se unlawful when it occurred in the course of bargaining. "Angry outbursts and inartful comments made in the heat of bargaining are realities of negotiations and when isolated . . . do not necessarily bespeak a sinister motive." *Royal Motor Sales*, 329 NLRB 760 (1999), quoting *American Packaging Corp.*, 311 NLRB 482 (1993). We view the context of Petrarca's comment in this case as part of the back-and-forth of heated negotiations and not evidence of animus. For these reasons, we find that the Union failed to establish its prima facia case that the District violated Section 14(a)(3) of the Act.

Even if the Union had established its prima facie case, the record indicates that the District's position on makeup days was motivated by its desire to offset some of the costs of the increased

salary and benefits paid in the strike settlement. As the ALJ found, this was a bona fide legitimate business reason that it relied on for its bargaining proposal.

IV. Order

Although the ALJ's analysis of an independent 14(a)(1) violation was unnecessary, because he correctly determined there was no violation, we leave that finding undisturbed. For the reasons discussed above, we find that the District did not violate Section 14(a)(3) and, derivatively, (1), of the Act and IT IS HEREBY ORDERED that the ALJ's dismissal of the Complaint is affirmed.

V. Right to Appeal

This is a final order of the Illinois Educational Labor Relations Board. Aggrieved parties may seek judicial review of this Order in accordance with the provisions of the Administrative Review Law, except that, pursuant to Section 16(a) of the Act, such review must be taken directly to the Appellate Court of the judicial district in which the IELRB maintains an office (Chicago or Springfield). Petitions for review of this Order must be filed within 35 days from the date that the Order issued, which is set forth below. 115 ILCS 5/16(a). The IELRB does not have a rule requiring any motion or request for reconsideration.[3]

Decided: **November 16, 2022**
Issued: **November 17, 2022**

/s/ Lara D. Shayne
Lara D. Shayne, Chairman

/s/ Steve Grossman
Steve Grossman, Member

/s/ Chad D. Hays
Chad D. Hays, Member

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[3] Member Michelle Ishmael recused herself from the Board's decision in this case, and in no way participated in the discussion and deliberation of the matter.

STATE OF ILLINOIS
ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

Geneva Education Association, IEA-NEA,	)	
Complainant	)	
and	)	Case No. 2019-CA-0080-C
Geneva Community Unit School District 304,	)	
Respondent	)	

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

I. BACKGROUND

On June 7, 2019, Complainant, Geneva Education Association, IEA-NEA (Union), filed an unfair labor practice charge against Respondent, Geneva Community Unit School District 304 (District), alleging it had violated Section 14(a) of the Illinois Educational Labor Relations Act (Act), 115 ILCS 5/1, *et seq*. After investigation, on September 30, 2019, the Executive Director, on behalf of the Illinois Educational Labor Relations Board (IELRB or Board), issued a complaint for hearing.

The hearing in this matter was conducted before the undersigned on February 15, 2022. Both parties were afforded and took advantage of an opportunity to file post-hearing briefs.

II. ISSUES AND CONTENTIONS

Complainant: The Union contends Respondent violated Section 14(a)(1) and (3) of the Act in that the District, during bargaining, refused to make-up instructional days lost while employees were on strike, in retaliation for them engaging in that activity. The Union seeks an appropriate remedy.

Respondent: The District denies it violated the Act. As an initial matter, it asserts the views and opinions its bargaining team expressed during negotiations are permitted under Section 14(c) of the Act. Moreover, the District contends the Union accepted the District's position regarding the make-up of instructional days, during negotiations in which each party was acting independently and in its own self-interest.

III. FINDINGS OF FACT

The parties stipulated and I find as follows:

1. The Union filed an unfair labor practice charge in this proceeding on June 7, 2019, and a copy thereof was served on the District.
2. At all times material, Geneva Community Unit School District 304, was an educational employer within the meaning of Section 2(a) of the Act and subject to the jurisdiction of the Board.

3. At all times material, Geneva Education Association, IEA-NEA, was a labor organization within the meaning of Section 2(c) of the Act.
4. At all times material, the Union was the exclusive representative within the meaning of Section 2(d) of the Act, of a bargaining unit comprised of certain of the District's employees, including those in the job title or classification of Teacher.
5. At all times material, the Union and District have been parties to a collective bargaining agreement (CBA) for the unit referenced in paragraph 4, with a term ending August 14, 2018.
6. From December 4 to December 10, 2018, the members of the unit referenced in paragraph 4, went on strike.
7. The strike, referenced in paragraph 6, constituted protected activity under the Act.
8. At all times material, the District employed Tom Anderson in the job title or classification of Teacher.
9. At all times material, Anderson was an educational employee within the meaning of Section 2(b) of the Act.
10. At all times material, Anderson was a member of the bargaining unit referenced in paragraph 4.
11. At all times material, Anderson served as a negotiator on the Union's bargaining team in 2018, during the negotiations for the 2018-2023 CBA, for the unit referenced in paragraph 4.
12. At all times material, the District employed Jordan Zimberoff in the job title or classification of Teacher.
13. At all times material, Zimberoff was an educational employee within the meaning of Section 2(b) of the Act.
14. At all times material, Zimberoff was a member of the bargaining unit referenced in paragraph 4.
15. At all times material, Zimberoff served as a negotiator on the Union's bargaining team in 2018, during the negotiations for the 2018-2023 CBA, for the unit referenced in paragraph 4.
16. At all times material, the District employed Mary Mondul in the job title or classification of Teacher.
17. At all times material, Mondul was an educational employee within the meaning of Section 2(b) of the Act.
18. At all times material, Mondul was a member of the bargaining unit referenced in paragraph 4.
19. At all times material, Mondul served as the note-taker on the Union's bargaining team in 2018, during the negotiations for the 2018-2023 CBA, for the unit referenced in paragraph 4.
20. At all times material, the Union employed Bonnie Booth in the job title or classification of Uniserv Director.
21. At all times material, Booth assisted the Union's bargaining team in 2018, during the negotiations for the 2018-2023 CBA.

22. At all times material, Mark Grosso served as president of the District's board of education and was on the on the District's bargaining team in 2018, during the negotiations for the 2018-2023 CBA.

23. At all times material, Taylor Egan served as a member on the District's board of education and was on the on the District's bargaining team in 2018, during the negotiations for the 2018-2023 CBA.

24. At all times material, the District employed Justino Petrarca as its attorney.

25. Petrarca was on the on the District's bargaining team in 2018, during the negotiations for the 2018-2023 CBA.

26. Anderson, Zimberoff, Mondul, Booth, Grosso, Egan, and Petrarca were present on December 9, 2018, during the final mediation session between the parties.

On the basis of the testimony of the witnesses, my observation of their demeanors, and the documentary evidence in the record, I make the following additional findings of fact:

The parties began negotiating a successor to their existing CBA in or about March 2018, more or less concluding their negotiations early in the morning on December 10, 2018.[1] Tr. 17, 29, 48, 72, 98, 105-06. The parties' negotiations proceeded at steady pace until July or August 2018, when they slowed and became unproductive, primarily on the topic of wages. Tr. 17-18, 21-22, 45-46, 94. In or about August 2018, a mediator from the Federal Mediation and Conciliation Service began assisting the parties in their efforts to reach agreement. Tr. 18, 42. Ultimately, however, the Union decided a strike was necessary, and the unit went out, as noted above, on Tuesday, December 4, 2018, and stayed out until the following Monday, December 10, 2018, consuming a total of five instructional days. Tr. 19, 43, 68, 96, 105-06.

From approximately 3:00 p.m. on Sunday, December 9, 2018, to approximately 3:00 a.m. on Monday, December 10, 2018, the parties met, with the assistance of the mediator, to attempt to reach agreement on wages and other matters related to the strike, including the topic of making up the instructional days lost to the strike. Tr. 23-24, 48, 72, 98-99. After resolving the issues on wages, the parties turned their attention to the make-up days topic. Tr. 49-50. The Union proposed making up all five days of the strike, Tuesday through Friday, and Monday; the District eventually moved off its no make-up-days stance, and at approximately 11:25 p.m. on Sunday, December 9, proposed one make-up day, Monday, December 10, the day the unit would vote on the tentative agreement. Tr. 24, 50, 75, 162-63; R. Ex. 6 at p. A-0136. At this point in the negotiations, the parties were in separate rooms, with the mediator shuttling proposals between them. Tr. 50, 99, 120, 164. At approximately 2:30 a.m. on Monday, December 10, the Union's bargaining team asked the mediator to request someone from the

[1]Reference to exhibits in this matter will be as follows: Complainant exhibits, "C. Ex. ____"; Respondent exhibits, "R. Ex. ____"; Joint exhibits, "Jt. Ex. ____." References to the transcript of proceedings will be "Tr. ____."

District's bargaining team to come down to meet with them to explain why the District would not move on the make-up days issue. Tr. 50, 164. The mediator did as asked, and Petrarca and Grosso went to see the Union's bargaining team. Tr. 50, 165.

When Petrarca and Grosso arrived in the Union's meeting room, Anderson expressed puzzlement at the District's refusal to make up the lost instructional days, noting it was clearly in the best interests of its students. Tr. 51, 100, 123, 165. Petrarca, admittedly tired and frustrated, discounted the Union's concern about the well being of the students and asserted, along with Grosso, the District would not pay the teachers for not working. Tr. 165-66. Grosso also added the District's board of education had indications from the community that it did not wish to make up the lost instructional days. Tr. 165-66. Zimberoff responded the teachers were prepared to work making up the lost instructional days by adding them to the end of the school year. Tr. 166. Petrarca replied, noting due to the strike, children experienced a consequence, parents and families experienced a consequence, and the community and the board of education experienced a consequence, and the teachers will experience a consequence too.[2] Tr. 166. Although neither Petrarca nor Grosso indicated it during the meeting, the District planned to offset the economic concessions it had not anticipated granting, through the savings accomplished by not have to pay for the four lost instructional days. Tr. 118, 140, 172. The meeting ended at that point, Petrarca and Grosso returned to the District's meeting room, and shortly thereafter, the mediator notified the parties they had agreement on a successor CBA. Tr. 100, 166.

IV. DISCUSSION AND ANALYSIS

Under Section 3 of the Act, educational employees are guaranteed the right of self-organization, the right to form, join or assist any labor organization, and the right to bargain collectively through representatives of their own choosing on questions of wages, hours and other conditions of employment. Section 14(a)(1) of the Act makes it an unfair labor practice for an employer or its agents to interfere with, restrain or coerce educational employees in the exercise of their Section 3 rights. The Board and the courts have long held that cases involving a threat must be resolved by evaluating whether the conduct or statement at issue, when viewed objectively from the standpoint of an employee, would reasonably have had the effect of coercing, restraining or interfering with the exercise of

[2]I credited Petrarca's testimony regarding his phrasing of the "consequences" statement. Grosso's testimony Petrarca did not use the words "need" or "deserve" with the word "consequences" bolsters that of Petrarca. Tr. 123-24. So finding, however, does not cast doubt on the testimony of Anderson, Zimberoff, Mondul, or Booth, who testified, variously, Petrarca said the teachers "deserved" or "needed" consequences for the work stoppage. Tr. 24, 28, 50-51, 76, 99. Given at the time of the statement the occupants of the Union's meeting room had been bargaining for over eleven hours, it was 2:30 a.m. on a Monday morning, they were unquestionably tired, frustrated, and perhaps not in the frame of mind to hear or parse the difference between the phrases "will experience a consequence" and "deserved a consequence", or "needed consequences", or "deserved consequences", or "needed a consequence." Tr. 55-56, 165. In other words, although I credited Petrarca's testimony on this point, under the circumstances existing when he made the statement, I do not find it remarkable or incredible in the least, his listeners heard in essence, the teachers "deserved" or "needed" consequences for the work stoppage.

protected rights. Hardin County Education Association v. IELRB, 174 Ill. App. 3d 168, 528 N.E.2d 737 (4th Dist. 1988); Georgetown-Ridge Farm Community Unit School District No. 4 v. IELRB, 239 Ill. App. 3d 428, 606 N.E.2d 667 (4th Dist. 1992); Neponset Community Unit School District No. 307, 13 PERI 1089 (IELRB 1997); See also, Green and Warns/City of Chicago, 3 PERI ¶3011 (IL LLRB 1987); Gale/Chicago Housing Authority, 1 PERI ¶3010 (IL LLRB 1985).[3] In such cases, proof of illegal motivation is not required to show a violation of Section 14(a)(1). Id. Consistent therewith, pursuant to the protected speech provision in Section 14(c) of the Act, an employer's statements do not violate Section 14(a)(1) unless a reasonable employee would view the statements as conveying a promise of benefit or threat of reprisal or force.[4] City of Mattoon, 11 PERI ¶2016 (IL SLRB 1995); City of Chicago (Department of Health), 10 PERI ¶3031 (IL LLRB 1994). Correspondingly, charging party need not make any showing that employees were in fact coerced, restrained, or interfered with, or that respondent had a "bad" motive. Elk Grove Village Firefighters Association/Village of Elk Grove Village, 10 PERI ¶2001 (IL SLRB 1993)(wherein the Board found a violation of Section 10(a)(1) of the Illinois Public Labor Relations Act, 5 ILCS 315/1, the parallel to Section 14(a)(1) of the Act, despite the fact respondent acted in good faith and on the advice of counsel, as the unfair labor practice did not turn on respondent's motive, it was of no consequence that it was mistaken or that it acted upon the advice of legal counsel, citing Florida Steel Corporation, 220 NLRB 1201, 1203 (1975), enf'd, 538 F.2d 324 (4th Cir. 1976)).[5] Thus, the issue here is whether a reasonable employee in the circumstances of the audience for Petrarca's "consequences" statement would view it as conveying a promise of benefit or threat of reprisal or force.

On the facts as presented herein, no reasonable employee would view Petrarca's complained-of statement as conveying a threat of reprisal or force. Petrarca's statement, regardless of whether he said the teachers "will experience a consequence", or "deserved a consequence", or "needed consequences", or "deserved consequences", or "needed a consequence" or any other variation thereon, was nothing more than a statement of opinion, whether it

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[3]Accord NLRB v. Acme Die Casting Corp., 728 F.2d 959 (7th Cir. 1984); Spartan Plastics, 269 NLRB 546 (1984); Wright Line, Inc., 251 NLRB 1083 (1980) enf'd, 662 F.2d 899 (1st Cir. 1981), cert. den. 455 U.S. 989, approved by the Supreme Court in NLRB v. Transportation Management Corp., 462 U.S. 393 (1983); Russell Stover Candies, Inc. v. NLRB, 551 F.2d 204 (8th Cir. 1977); Pennsylvania Department of Labor and Industry, 16 PPER 16091 (Penn. PLRB 1985); Hillsborough County, 11 FPER 16227 (Fla. PERC 1985); City of Mount Vernon, 12 PERC 3108 (N.Y. PERB 1979).

[4]Section 14(c) of the Act provides in pertinent part that "the expressing of any views, argument, or opinion or the dissemination thereof…shall not constitute or be evidence of an unfair labor practice under any of the provisions of this Act, if such expression contains no threat of reprisal or force or promise of benefit." Movie Star, 361 F.2d 346, 62 LRRM 2234 (5th Cir. 1966)(wherein the court denied enforcement of a National Labor Relations Board order finding a violation of Section 8(a)(5), holding that the employer's noncoercive, informational letter was privileged under Section 8(c) of the National Labor Relations Act (NLRA), from which the language in Section 14(c) of the Act was derived).

[5]"It is too well settled to brook dispute that the test of interference, restraint, and coercion under Section 8(a)(1)...does not depend on an employer's motive nor on the successful effect of the coercion. Rather, the illegality of an employer's conduct is determined by whether the conduct may reasonably be said to have a tendency to interfere with the free exercise of employee rights under the [NLRA]." El Rancho Market, 235 NLRB 468, 471, 98 LRRM 1153 (1978), citing American Freightways Co., 124 NLRB 146, 44 LRRM 1302 (1959).

was his opinion, Grosso's opinion, the opinion of the District's board of education, or the community at large. Correspondingly irrelevant is whether Petrarca's complained-of statement was based on feedback from the community at large, or just his or the board of education's sensibilities. Herein, whether the bargaining unit suffers the consequences of not making up all the lost instructional days is wholly in the control of the Union—if the make-up day issue is of sufficient importance, then the Union continues its strike. Petrarca's statement is protected under Section 14(c) of the Act and cannot constitute evidence of an unfair labor practice, as in the situation it was made, where the Union has significant control over whether the predicted consequence will occur, no reasonable employee would view it as conveying a threat of reprisal or force. Undoubtedly, there are circumstances and scenarios which could be devised, under which Petrarca's complained-of statement would violate 14(a)(1), however, the facts necessary to reach such a result are not present in the record in this case.

The Union's Section 14(a)(3) and (1) claim also lacks merit. The Union contends the District's refusal to make-up all lost instructional days was in retaliation for the unit going out on strike, in violation of the Act. At the time of the complained-of refusal, the parties were negotiating a successor to their existing CBA, during which, as is the norm, each party was acting in its own self-interest. During the negotiations, the District made economic concessions it had not anticipated, and opted to help pay for them through the savings accomplished by not have to pay for the four lost instructional days. In collective bargaining, it is the District's right to attempt this course of action, even if its rationale was noneconomic, such as to discourage the Union from future strikes. Under these circumstances, the Union's recourse is not the Act, but rather its economic leverage. Herein, when the District refused to budge on making-up all the lost instructional days (Tr. 62), the Union had to determine, given the District's overall contractual proposal, whether it was worth continuing the strike to force the District to make up all the lost instructional days. Ultimately, the Union concluded it was not worth continuing the strike over the issue and settled the contract. Tr. 62. The Union cannot now revisit that decision and seek to compel the District to make up all the lost instructional days by claiming its action in that regard was in violation of the Act. It could not do so even if in fact the District's action was retaliatory, of which there was no evidence. The Union's remedy is the economic leverage at its disposal. To allow otherwise would subject every provision in the CBA, including wages, to similar scrutiny to determine the reasons behind each party's proposals, thereby completely undermining the stability of the parties' relationship and the finality of the CBA.

V. RECOMMENDED ORDER

In light of the above findings and conclusions, the complaint issued in the above-captioned case is hereby dismissed in its entirety.

VI. EXCEPTIONS

In accordance with Section 1120.50 of the Rules and Regulations of the Board, Rules and Regulations (Rules), 80 Ill. Admin. Code §§1100-1135, parties may file written exceptions to this Recommended Decision and Order together with briefs in support of those exceptions, not later than 21 days after receipt hereof. Parties may file responses to exceptions and briefs in support of the responses not later than 21 days after receipt of the exceptions and briefs in support thereof. Exceptions and responses must be filed, if at all, at **ELRB.mail@illinois.gov** and with the Board's General Counsel, 160 North LaSalle Street, Suite N-400, Chicago, Illinois 60601-3103. Pursuant to Section 1100.20(e) of the Rules, the exceptions sent to the Board must contain a certificate of service, that is, **"a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service."** If any party fails to send a copy of its exceptions to the other party or parties to the case, or fails to include a certificate of service, that party's appeal will not be considered, and that party's appeal rights with the Board will immediately end. See Sections 1100.20 and 1120.50 of the Rules, concerning service of exceptions. If no exceptions have been filed within the 21 day period, the parties will be deemed to have waived their exceptions.

Issued in Chicago, Illinois, this 17th day of June, 2022.

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

John F. Brosnan

John F. Brosnan
Administrative Law Judge

From:	Brosnan, John
To:	Brennan, Eileen; Strizak, Ellen; White, Ciiera; ELRB.Spfld.Temp; Banks, Cathy A
Subject:	Geneva Education Association, IEA-NEA/Geneva Community Unit School District 304, Case No. 2019-CA-0080-C
Date:	Friday, June 17, 2022 10:44:54 AM
Attachments:	CA190080C-A.pdf

fyi

From: Brosnan, John
Sent: Friday, June 17, 2022 10:42 AM
To: James A. Petrungaro <jpetrungaro@edlawyer.com>; Coronado, Nicolas <Nicolas.Coronado@ieanea.org>
Subject: Geneva Education Association, IEA-NEA/Geneva Community Unit School District 304, Case No. 2019-CA-0080-C

Dear Mr. Petrungaro and Mr. Coronado:
Please see the attached document. Thank you.

CERTIFICATION OF SERVICE

I, John F. Brosnan, an attorney, certify that I have this 17th day of June, 2022, before 5:00 p.m., served the attached **ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER** issued in the above-referenced case on the parties listed herein below, by electronic mail only, to the email addresses indicated.

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