

STATE OF ILLINOIS  
EDUCATIONAL LABOR RELATIONS BOARD

Lindsey Morris,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. 2022-CA-0081-C
	)	
Chicago Board of Education,	)	
	)	
Respondent	)	

**OPINION AND ORDER**

**I. Statement of the Case**

On June 30, 2022, Lindsey Morris (Charging Party or Morris) filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (Board or IELRB) against Chicago Board of Education (Respondent or CBE). Following an investigation of the charge, the IELRB’s Executive Director issued a Recommended Decision and Order (EDRDO) dismissing the charge in its entirety. This case is before the Board because Morris filed exceptions to the EDRDO.

**II. Factual Background**

We adopt the facts as set forth in the underlying EDRDO. Because the EDRDO comprehensively sets forth the factual background of the case, we will not repeat the facts herein except as necessary to assist the reader.

**III. Discussion**

The EDRDO was served on Morris on June 8, 2023.<sup>1</sup> Exceptions to an EDRDO must be filed no later than 14 days after service of the EDRDO. 80 Ill. Adm. Code 1120.30(c). Morris’

<sup>1</sup> Because the EDRDO was emailed after 5:00 p.m. on June 7, 2023, it is considered served on the following business day.

exceptions were due no later than June 22, 2023. However, he filed them on July 6, 2023, two weeks after they were due.<sup>2</sup>

A charging party waives their right to contest a recommended decision and order when they do not file timely exceptions to that recommended decision and order. *Pierce v. IELRB*, 334 Ill. App. 3d 25, 777 N.E.2d 570 (1st Dist. 2002); *Board of Education of the City of Chicago v. IELRB*, 289 Ill. App. 3d 1019, 682 N.E.2d 398 (1st Dist. 1997). Accordingly, the Board routinely strikes untimely exceptions. *Rochester Community Sch. Dist. No. 3A*, 35 PERI 7, Case No. 2017-CA-0059-C (IELRB Opinion and Order, June 19, 2018); *Proviso Township High Sch. Dist. #209*, 34 PERI 64, Case No. 2017-CA-0065-C (IELRB Opinion and Order, September 15, 2017); *Peoria School District 150*, 23 PERI 46, Case Nos. 2006-CA-0006-S, 2006-CA-0008-S, 2006-CA-0032-S (IELRB Opinion and Order, April 19, 2007). For that reason, we strike Morris' exceptions as untimely filed.

Even if they were timely filed, nothing in Morris' exceptions warrants overturning the Executive Director's dismissal of the charge. Morris argues that the Executive Director incorrectly dismissed the charge, as he submitted an entire file of documents of substantial evidence during the investigation. He complains that the Board's investigator would not allow him to submit more than 450 pages as evidence in support of his charge. Morris asserts that despite the page limit, the documents he submitted during the investigation establish a violation of the Act. Yet the charge did not allege that CBE retaliated against him for asserting his rights under the IELRA, but that CBE retaliated against him for filing a charge with its Equal Opportunity Compliance Office. Whether a charging party has rights protected by a code or statute other than the Act, or by the Constitution, is beyond the scope of the Board's authority to assess. *General George S. Patton School District 133*, 10 PERI 1118, Case No. 94-CA-0050-C (IELRB Opinion and Order, August 19, 1994).

<sup>2</sup> Morris' exceptions were sent by regular U.S. mail, postmarked July 3, and are considered to have been filed on the date they were received by the IELRB, July 6, 2023. 80 Ill. Adm. Code 1100.20(a).

#### IV. Order

For the reasons discussed above, we strike Morris' exceptions as untimely and IT IS HEREBY ORDERED that the Executive Director's Recommended Decision and Order 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.

Decided: **September 20, 2023**

Issued: **September 21, 2023**

/s/ Lara D. Shayne

Lara D. Shayne, Chairman

/s/ Steve Grossman

Steve Grossman, Member

/s/ Chad D. Hays

Chad D. Hays, Member

/s/ Michelle Ishmael

Michelle Ishmael, Member

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**EXECUTIVE DIRECTOR’S RECOMMENDED DECISION AND ORDER**

**I. THE UNFAIR LABOR PRACTICE CHARGE**

On June 30, 2022, Charging Party Lindsey Morris (Morris) filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (IELRB or Board) in the above-captioned case, alleging that Respondent, Chicago Board of Education, violated Section 14(a) of the Illinois Educational Labor Relations Act (Act), 115 ILCS 5/1, *et seq.* (2012), *as amended*. After an investigation conducted in accordance with Section 15 of the Act, the Executive Director issues this dismissal for the reasons set forth below.

**II. INVESTIGATORY FACTS**

**A. Jurisdictional Facts**

At all times material, the Chicago Board of Education (CBE) is an educational employer within the meaning of Section 2(a) of the Act and subject to the jurisdiction of the Board. At all times material until his termination on June 2, 2022, Lindsey Morris was an educational employee within the meaning of Section 2(b) of the Act, employed by CBE in the job title or classification of Quality Assurance Specialist. The position to which Morris was employed was not part of any bargaining unit at any time material to this charge.

**B. Facts Relevant to the Unfair Labor Practice Charge**

Morris was hired by CBE on August 29, 2018, as a Quality Control Specialist. On or about September 11, 2020, Morris went to a school that required a forehead temperature to be taken prior to entry, pursuant to COVID-19 guidelines. Morris allegedly refused to allow his forehead to be checked, asking why they couldn’t check his wrist instead. In the ensuing conversation, Morris’ behavior was described as loud and aggressive, causing a scene at the school and attempted to shout out for the principal of the school. Morris received a written reprimand on September 22, 2020. That reprimand referenced a verbal warning that Morris had previously received on July 27, 2020, in which Morris was alleged to have engaged in combative behavior and accusatory language toward his supervisor, Derryl Bolden. Bolden also had previously received several complaints from other school administrators, all of whom claim that Morris used inappropriate language. The reprimand concluded by asking that Morris make a change to his behavior and reminded him to always conduct himself in a professional manner.

On or about April 5, 2022, Morris admitted that he made audio recordings of several conversations without the consent of the other parties to those conversations, which is illegal under Illinois law. Following this revelation, CBE moved to dismiss Morris. On June 1, CBE presented Morris with a recommendation

for dismissal. Morris refused to sign the documents. Morris was officially terminated on June 2, 2022, and given a Do Not Hire designation.

Morris claims that he was terminated in retaliation for his having filed a complaint with the Board of Education's Equal Opportunity Compliance Office (EOCO) against Bolden and other senior members of his department over promotions that he believes he should have received. He provides no documentation of the complaint. CBE states that the positions that Morris applied for were not promotions, but new positions created pursuant to the restructuring of his department, and that those hired to the new positions did not receive a salary increase.

Morris does not allege that he was a part of a union or that he was involved in any unionization efforts. He also does not allege that he acted with or on behalf of a group of fellow employees in raising issues about the terms and conditions of employment, either in his EOCO complaints or in any other manner.

### **III. THE PARTIES POSITIONS**

Here, Morris alleges that he was retaliated against for having filed complaints with the EOCO. The Board of Education denies that the complained-of conduct violates the Act.

### **IV. DISCUSSION**

Morris alleges retaliation for filing a complaint with the EOCO. Section 14(a)(3) of the Act prohibits educational employers 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." 115 ILCS 5/14(a)(3). In order for Morris to demonstrate that he was retaliated against, he must show that he was involved in protected union or concerted activity, that the employer was aware of that activity and that an adverse action was taken against him, in whole or in part, because of that protected activity. City of Burbank v. ISLRB, 128 Ill. 2d 335 (1989), Harden County Education Assn. v. IELRB, 174 Ill. App. 3d 168 (4<sup>th</sup> Dist. 1988). Where a charge alleging a 14(a)(1) violation arises out of the same conduct as an alleged violation of Section 14(a)(3), the 14(a)(1) charge is treated as derivative. Bloom Township High School Dist. 206 v. IELRB, 312 Ill. App. 3d 943, 957, 728 N.E.2d 612, 623 (1<sup>st</sup> Dist. 2000).

Here, Morris' charge states that the alleged retaliation occurred because he filed a complaint with the EOCO. There is no evidence of Morris' involvement in any union or concerted activity. An employee is said to be engaged in protected union or concerted activity when that employee invokes a right arising out of a collective bargaining agreement (CBA) or acts with or on the authority of other employees. Bd. of Ed. Of Schaumburg Community Consolidated School Dist. 54 v. IELRB, 247 Ill. App. 3d 439 (1<sup>st</sup> Dist. 1993). Here, Morris only alleges that he was retaliated against for his personal EOCO complaints, not complaints that invoke a right under the Illinois Educational Labor Relations Act (IELRA), which include acting on behalf of fellow employees, nor a right under any CBA, noting that Morris never presented any evidence to show that his position came under a CBA. Charges such as Morris' that arise out of personal "pique" rather than any union or group concern are not protected or union activity. Schaumburg at 458-59.

Moreover, even if we assume that Morris's EOCO complaints are protected activity, there is no evidence that he was terminated in retaliation for said activity. The stated reason for his termination was his admitted recording of meetings without the consent of all attendees of the meeting in violation of state law, coupled with various complaints and allegations of misconduct including, but not limited to, the one leading to the September 22, 2020 written reprimand. His EOCO complaints were never referenced, and Morris provides no evidence that they played a role in his termination.

And finally, because there is no evidence that Morris was engaged in union or concerted activity, nor evidence that, even if his EOCO complaints were protected activity, that he was terminated because he filed those complaints, there is no issue of law or fact upon which a complaint for hearing may issue.

#### **V. ORDER**

Accordingly, the instant charge is hereby dismissed in its entirety.

#### **VI. RIGHT TO EXCEPTIONS**

In accordance with Section 1120.30(c) of the Board's Rules and Regulations (Rules), Ill. Admin. Code tit. 80, §§1100-1135, parties may file written exceptions to this Recommended Decision and Order together with briefs in support of those exceptions, not later than 14 days after service hereof. Parties may file responses to exceptions and briefs in support of the responses not later than 14 days after service of the exceptions. Exceptions and responses must be filed, if at all, 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 1120.30(c) of the Rules, concerning service of exceptions. If no exceptions have been filed within the 14-day period, the parties will be deemed to have waived their exceptions, and unless the Board decides on its own motion to review this matter, this Recommended Decision and Order will become final and binding on the parties.

**Issued in Chicago, Illinois, this 7th day of June, 2023.**

**STATE OF ILLINOIS**

**Executive Director**

Illinois Educational Labor Relations Board  
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