STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Tonja Hester,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. 2025-CA-0049-C
	)	
Harrisburg Unit District 3,	)	
	)	
	)	
Respondent	)	

OPINION AND ORDER

I. Statement of the Case

On February 13, 2025, Tonja Hester (Hester or Charging Party) filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (Board or IELRB) in the above-captioned matter alleging that Harrisburg Unit District #3 (District or Respondent) committed unfair labor practices within the meaning of Section 14(a) of the Illinois Educational Labor Relations Act, 115 ILCS 5/1, *et seq.* (Act or IELRA). Following an investigation, the Board's Executive Director issued a Recommended Decision and Order (EDRDO) dismissing the charge as untimely filed. Hester filed timely exceptions to the EDRDO, and the District filed a timely response to her exceptions.

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 except as necessary to assist the reader.

III. Discussion

Hester's first exception is that the Executive Director excluded or omitted evidence from the investigative record that she submitted during the investigation of her charge. She does not explain her basis for this exception. Just because the EDRDO does not recite all the details contained in the documents that Hester submitted does not demonstrate that the Executive Director failed to consider her evidence. The Executive Director properly distilled what was

relevant from those documents. The charge was dismissed because there was no evidence that the District violated the Act.

Hester's second exception is that the EDRDO misapplied the "statute of limitations" in Section 15 of the Act that no order shall issue based upon any unfair labor practice occurring more than six months prior to the filing of a charge with the Board. She asks the Board to allow tolling of the six-month time period because she was confused by the District's alteration of the language in the Memorandum of Understanding (MOU), and thus unaware she was excluded from the salary audit agreement until December 2024. Tolling suspends or stops the running of a statute of limitations, it is equivalent to a clock stopping and then restarting. 25 Ill. Law and Prac. Limitations of Actions § 71. But the six-month time period in Section 15 of the Act is not a statute of limitations, it is jurisdictional in nature and cannot be tolled. *Charleston Community Unit School District No. 1 v. IELRB*, 203 Ill. App. 3d 619, 561 N.E.2d 331, (4th Dist. 1990). It begins to run when the party aggrieved by the alleged unlawful conduct either has knowledge of it, or reasonably should have known of it, regardless of whether that person understands the legal significance of the conduct. *Jones v. IELRB*, 272 Ill. App. 3d 612, 650 N.E.2d 1092 (1st Dist. 1995); *Charleston*, 203 Ill. App. 3d 619, 561 N.E.2d 331; *Wapella Education Association v. IELRB*, 177 Ill. App. 3d 153, 531 N.E.2d 1371 (4th Dist. 1988). Only acts that occur within the six-month time period can serve as the basis for a timely charge. *City Colleges of Chicago (Johnson)*, 12 PERI 1004, Case No. 95-CA-0073-C (IELRB Opinion and Order, September 1, 1995). The Board lacks jurisdiction to act on an unfair labor practice charge that has not been timely filed. *Charleston*, 203 Ill. App. 3d 619, 561 N.E.2d 331. Hester was put on notice by her UniServ Director that she was going to be excluded from the salary audit agreement on June 12, eight months and one day before she filed her charge.

In Hester's third exception, she requests that the Board independently investigate the details, timing, and transparency of the District's language alteration in the MOU. Unfair labor practice charge investigations are initiated when the charging party, who can be an educational employee, employer or labor organization, files a charge. 80 Ill. Adm. 1120.20(a) & 1120.30. In unfair labor practice cases, it is up to the charging party, Hester in this case, to submit evidence in support of their charge. 80 Ill. Adm. Code 1120.30(b)(1). Hester's failure to submit evidence to

substantiate her claim that the Act was violated does not trigger the Board to take additional action on her behalf.

Hester's fourth exception is that an investigatory meeting was not conducted. The Board's Rules and Regulations provide that during the investigation of an unfair labor practice charge, "[t]he Executive Director *may* hold an investigatory conference with the parties when the *Executive Director determines* that the investigatory conference will facilitate efforts to explore whether the charge can be resolved informally or the facts stipulated and to further develop the record for determination of whether the charge states an issue of law or fact." 80 Ill. Adm. Code 1120.30(b)(3). (Emphasis added). The rule does not require the Executive Director to hold an investigatory conference. It grants the Executive Director, not the parties, discretion to decide whether an investigatory conference is necessary. The Executive Director's refusal of Hester's request for an investigatory conference does not warrant overturning the EDRDO.

Hester argues that denying her an investigatory conference without justification violates her right to due process, citing *Logan v. Zimmerman Brush Co.*, 455 U.S. 422 (1982). In that case, an employee filed a timely charge with the Illinois Fair Employment Practices Commission (Commission) alleging unlawful termination in violation of the Illinois Fair Employment Practices Act (FEPA).[1] The Commission inadvertently scheduled the statutorily required fact finding conference for a date five days after the expiration of the 120-day statutory period to convene the conference. Although the Commission denied the employer's motion that the charge be dismissed for failure to hold a timely conference, the Illinois Supreme Court held that the failure to comply with the 120-day requirement deprived the Commission of jurisdiction to consider appellant's charge. The United States Supreme Court reversed and remanded the matter back to the Commission, finding that dismissal of the employee's charge for reasons beyond the employee's control violated due process. *Logan* is clearly distinguishable from the case before the Board for several reasons. First, unlike the statutorily required fact finding conference in *Logan*, investigatory conferences are not required by the IELRA or the Board's

[1] The Commission has been replaced by the Illinois Department of Human Rights and the Illinois Human Rights Commission. FEPA has been replaced by the Illinois Human Rights Act.

Rules and Regulations. Second, Hester's charge was not dismissed because there was no investigatory conference, whereas the charge in *Logan* was dismissed because there was no fact-finding conference. Third, the lower court's determination that the Commission's failure to comply with the 120-day statutory requirement deprived the Commission of jurisdiction to consider the charge, which the U.S. Supreme Court overturned, is dissimilar to the Executive Director's determination in this case that the untimeliness of Hester's charge renders it outside the Board's jurisdiction. The Board is without jurisdiction in this case because of Hester's inaction, her failure to file her charge within the six-month statutory time period. In contrast, the Commission in *Logan* was without jurisdiction because of the Commission's inaction, its failure to hold a conference during the 120-day period. Thus, Hester's due process rights were not violated because the Executive Director did not hold an investigatory conference.

Hester's fifth exception is that the District treated her unfairly and differently compared to similarly situated employees. Even assuming, arguendo, this is true and amounts to an unfair labor practice, the Board has no jurisdiction to take any action on this charge because it was not timely filed.

Hester's final exception is that that the District's actions resulted in considerable equitable impact upon her. The same can likely be said about most charging parties with cases before the IELRB, regardless of whether they have a cognizable claim under the IELRA. But in all cases, including Hester's, the charge must be timely filed for the Board to find a violation of the Act and order a remedy. Because Hester's charge was untimely, the Board has no jurisdiction to consider whatever equitable impact may have resulted from the District's conduct.

IV. Order

For the reasons discussed above, IT IS HEREBY ORDERED that the Executive Director's Recommended Decision and Order dismissing the unfair labor practice as untimely 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: **August 20, 2025**
Issued: **August 20, 2025**

/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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EDUCATIONAL LABOR RELATIONS BOARD

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Respondent,	)	
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and	)	Case No. 2025-CA-0049-C
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Tonja Hester,	)	
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EXECUTIVE DIRECTOR'S RECOMMENDED DECISION AND ORDER

I. THE UNFAIR LABOR PRACTICE CHARGE

On February 13, 2025, Charging Party, Tonja Hester, filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (IELRB or Board) in the above-captioned case, alleging that Respondent, Harrisburg Unit District 3, violated Section 14(a) of the Illinois Educational Labor Relations Act (Act), 115 ILCS 5/1, *et seq.*[1] 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. FACTS

a. Jurisdictional Facts

Harrisburg Unit District #3 (District) is an educational employer within the meaning of Section 2(a) of the Act. Tonja Hester (Hester) is an educational employee within the meaning of Section 2(b) of the Act. Harrisburg Education Association, IEA-NEA (Union) is a labor organization within the meaning of Section 2(c) of the Act and is the exclusive representative of a bargaining unit representing all full-time and part-time certificated teaching personnel, including librarians, school nurses, and guidance personnel within the meaning of Section 2(d) of the Act.

b. Facts Relevant to the Unfair Labor Practice Charge

At all times material, the District employed Hester as a guidance counselor at Harrisburg High School. At all times material, Hester was member of the bargaining unit represented by the Union. Between 2014

[1] Hester filed a charge against the Harrisburg Education Association, IEA-NEA arising from the same events wherein she alleged a violation of Section 14(b) of the Act in IELRB Case No. 2025-CB-0013-C.

and 2022, the District employed Michael Gauch (Gauch) as its superintendent. From January 2023 to present, the District employed Dr. Amy Dixon (Dixon) as its superintendent. At all times material, the District employed Julie Martin (Martin) as a first-grade teacher at West Side Primary School. At all times material, Martin was a member of the bargaining unit represented by the Union. Martin held leadership positions with the Union, including President from 2022 until 2024. At all times material, the Illinois Education Association employed Cathy Stewart (Stewart) as a UniServ Director. At all times material, Stewart's duties included working with the Union.

At all times material, the Union and the District were parties to a collective bargaining agreement (CBA) effective through June 30, 2025. The CBA provided a salary schedule based on an employee's educational degree and additional educational credits. For example, under this schedule, an employee with a bachelor's degree earned a set base salary, but an employee with a bachelor's degree and 16 additional educational credits earned a higher set base salary. The maximum base salary applied to an employee with a master's degree and 32 additional educational credits. Section 8.2 of the CBA set forth the criteria necessary for the application of these salary schedules. Most relevantly, subsection B provides that

> Credit, determined by the following criteria will be given only for courses completed after the date on which a Master's Degree was awarded. Prior approval of the Superintendent and one of the criteria must be met.
> -- Credit for course work in the specific field in which the teacher is practicing or is qualified will be honored which are 400 or 500 level courses.
> -- Credits for course work in a university-approved program to a Doctor's Degree will be honored.
> -- Credits for course work in a university approved program leading to a Specialist's Degree will be honored for 400 or 500 level courses which constitute specialization in the area in which the person is teaching.
> --Credits for course work in a university-approved program leading to a Master's Degree, which has received approval from the Superintendent, will be honored. All certified staff who were employed prior to July 1, 1985, and who are currently actively pursuing a course of study, which results in receiving eligible additional credits, will be approved for placement on the salary schedule.

Hester obtained a master's degree and 32 hours of educational credit. However, she earned those hours prior to receiving her degree, making her ineligible for the increased salary.

Beginning in or around 2015 and continuing through the underlying matter, Hester engaged in instances of concerted activity. In 2015, she and a co-worker identified possible cheating by a relative of a

District official on the ACT and reported their findings to Gauch. Ultimately, Hester reported the cheating to the ACT. In late 2019 and early 2020, Hester initiated a grievance regarding the excessive salary given to the wife of a District board member. As a result of these instances, and other occasions, Hester claims to have experienced increased hostility from District officials.

In or around February 2024, Hester learned that other employees, with similar or identical educational experiences, may have been paid salaries inconsistent with the CBA's salary schedule. She first raised this issue in an email, dated February 29, to a District official. In March, she shared her suspicions with Dixon and then to Martin, with the hope that the Union could initiate an audit. Throughout March, Hester continued to advocate for the Union to initiate a salary audit with the District.

During this time, and in response to Hester's entreaties, the District began an audit and engaged with the Union in review of the ongoing audit. The audit showed that Hester had been correct that Gauch awarded salaries inconsistent with the CBA's scenarios to certain employees. At a May 2 meeting, the Union requested that the District review the salary records of Hester and two other employees. The Union and the District agreed to the review of those salary records and agreed to credit any other unit member with an increased salary consistent with the terms of Gauch's past deviations. Dixon directed that any unit member who believed they possessed sufficient educational credits to contact her for a review. On or around May 29, Hester contacted Stewart to discuss her educational credits. Based on this discussion, Stewart advised Hester that her educational history may not align with those deviations that Gauch allowed but that she would submit Hester's records for consideration.

On June 6, the Union submitted a draft salary audit agreement to the District. On June 7, Dixon requested that the Union amend the agreement to exclude Hester. On June 12, Stewart notified Hester that District intended to exclude her from the agreement. Later that month, on June 26, Martin sent out an email to the unit members notifying them of the finalized salary audit agreement. That agreement identified five employees who were awarded increased salaries inconsistent with the CBA and two additional employees eligible for credit. The parties based the decision on four scenarios; the first of which contemplated "Graduate level content courses taken concurrently while working toward a master's degree, but prior to

obtaining the degree, for the purpose of acquiring credentials necessary to teach college dual credit courses or other education credentials valuable to the district and its students."

On or around July 16, the Union and the District finalized a memorandum of understanding (MOU) for the salary audit agreement. The MOU amended the language of the first scenario to read that the District agrees to "[r]ecognize graduate level courses taken prior to obtain a master's degree for the purpose of acquiring credentials to teach dual credit courses or other educational credentials valuable to the district and its students." The District's board approved the MOU on the same day. The parties completed execution of the MOU on July 22, and the last of the four employees identified in the MOU executed it on August 16.

Following these events, Hester continued to advocate for her increased pay and met with the Union and the District several times. In or around December 2024 and January 2025, Hester first learned about the change in language from the salary audit agreement to the MOU.

III. THE PARTIES' POSITIONS

Hester asserts that the District excluded her from the benefits of the MOU because of her prior protected activities. The District denies that it violated the Act.

IV. DISCUSSION AND ANALYSIS

a. Standard for a Complaint

Before an unfair labor practice complaint can issue, the Board must "decide whether its investigation of the charge establishes a prima facie issue of law or fact sufficient to warrant a hearing of the charge." *Lake Zurich School District No. 95*, 1 PERI 1031, Case No. 1984-CA-0003 (IELRB Opinion and Order, November 30, 1984). For a complaint to issue, "the investigation must disclose adequate credible statements, facts, or documents which, if substantiated and not rebutted in a hearing would constitute sufficient evidence to support a finding of a violation of the Act." *Id.*

As set forth in *Brown County Community Unit School District No. 1*, 2 PERI 1096, Case No. 1985-CA-0057-S (IELRB Opinion and Order, July 31, 1986), the *Lake Zurich* standard for a complaint requires an assessment of all of the evidence presented during the investigation. *Id.* The charging party must establish a *prima facie* violation, but the investigator must also review the respondent's evidence. *Id.* If that evidence

shows that the charging party's facts are erroneous or does not rebut the respondent's evidence, no complaint should issue, because a *prima facie* case is no longer stated. *Id.*

b. The Timeliness of the Charge

Section 15 of the Act provides that "[n]o order shall be issued upon an unfair practice occurring more than 6 months before the filing of the charge alleging the unfair labor practice." 115 ILCS 5/15. This section applies a jurisdictional limitation on the Board's authority. *Charleston Cmty. Unit Sch. Dist. No. 1 v. IELRB*, 203 Ill. App. 3d 619, 623 (4th Dist. 1990). The six-month period begins to run when the person aggrieved by the alleged unlawful conduct either has knowledge of it, or reasonably should have known of it, regardless of whether that person understands the legal significance of the conduct. *Jones v. IELRB*, 272 Ill. App. 3d 612, 620 (1st Dist. 1995).

There is no dispute that Hester learned that the District intended to exclude her from the benefits of the agreement on June 12. It is on this date that she knew or should have known that an alleged adverse employment was being taken against her as a result of her past protected activity. Her continued requests for reconsideration do not change this fact nor this date. The change in language from the salary audit agreement to the MOU does not change this date She knew of the adverse action on June 12. Hester filed her charge on February 13, 2025, more than six months after the date on which she learned of the alleged violation of the Act. Accordingly, her charge falls outside the jurisdiction of the Board.

V. RECOMMENDED DECISION AND ORDER

For the reasons discussed above, the charge is dismissed in its entirety.

VI. RIGHTS TO EXCEPTIONS

In accordance with Section 1120.30(c) of the Board's Rules and Regulations (Rule), Ill. Admin. Code, tit. 80, §§ 1100-1135, parties may file written exceptions to this Recommended Order and Decision together with briefs in support of those exceptions, not later than 14 days after service hereof. Parties may file responses to the 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, 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 Section 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.

Dated: June 2, 2025
Issued: Chicago, Illinois

Victor E. Blackwell

Victor E. Blackwell, Executive Director

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