STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Kristen Wooten,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. 2025-CA-0012-C
	)	
Bremen Community High School Dist. 228,	)	
	)	
Respondent	)	

OPINION AND ORDER

I. Statement of the Case

On August 22, 2024, Kristen Wooten (Wooten or Charging Party) filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (Board) in the above-captioned matter alleging that Bremen Community High School District 228 (District or Respondent) committed unfair labor practices within the meaning of Section 14(a) of the Illinois Educational Labor Relations Act (Act or IELRA), 115 ILCS 5/1, *et seq.* Following an investigation, the Board's Executive Director issued a Recommended Decision and Order (EDRDO) dismissing the charge. Wooten 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

Wooten asserted in her charge that the District violated the Act when it denied her right to union representation at a meeting on March 7, 2024, intimidated and harassed her due to her support for the union, and breached its duty to bargain in good faith.[1] The Executive Director dismissed the charge because there was no evidence that the March 7 meeting was investigative in nature, that the District's non-renewal of Wooten's employment was in retaliation for her

[1] All dates herein occur in 2024 unless otherwise indicated.

protected or union activity, and because Wooten as an individual employee does not have standing to pursue a bad faith bargaining charge.

Wooten's first exception is that the Executive Director erred in finding that the March 7 meeting was not investigatory and therefore, *Weingarten* rights did not attach. In *NLRB v. J. Weingarten. Inc.*, 420 U.S. 251 (1975), the United States Supreme Court held that an employer's denial of an employee's request that a union representative be present during an investigatory interview which the employee reasonably believes might result in disciplinary action constitutes an unfair labor practice in violation of Section 8(a)(1) of the National Labor Relations Act (NLRA), 29 U.S.C. §§151 et seq.[2] The IELRB extended *Weingarten* rights to educational employees in *Summit Hill School District 161*, 4 PERI 1009, Case No. 86-CA-0090-C (IELRB Opinion and Order, December 1, 1987).

In *Summit Hill*, the IELRB found that an educational employee has a right to the presence of a union representative when the following three circumstances exist: 1) the meeting between the employee and their supervisor is investigatory; 2) the employee reasonably believes that disciplinary action may result; and 3) the employee requests a union representative. 4 PERI 1009. In this case, even if Wooten reasonably believed that the March 7 meeting would result in disciplinary action, it is not clear that Wooten ever asked for a union representative or that the meeting was investigatory in nature.

In her charge form, Wooten states that District Assistant Principal Wendy Bumphis (Bumphis) told her "not to bring anything (or anyone)" to the March 7 meeting. The email exchange between the women does not lend itself to interpretation that Wooten was instructed not to bring a union representative to the meeting. On March 6, Bumphis sent Wooten an email asking if she could meet the following afternoon in her office. Wooten agreed and asked, "Is there anything I should bring with me?" Bumphis replied, "No need to bring anything." Wooten further asserts in her charge form that she was "specifically denied her *Weingarten* Rights to Union Representation" and that after she learned it was a disciplinary meeting, she requested

[2] Section 8(a)(1) of the NLRA provides that it is an unfair labor practice for an employer to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in the NLRA, 29 U.S.C. §§158(a)(1). Section 8(a)(1) of the NLRA is very similar to Section 14 (a)(1) of the Act.

union representation and was then told she was being terminated at the end of the semester. Yet her notes from the meeting make no mention of her request for union representation. Even if the record had indicated that Wooten asked for a union representative at the March 7 meeting, the Executive Director correctly found that Wooten's *Weingarten/Summit Hill* rights did not attach to the March 7 meeting because it was not investigatory in nature.

A meeting is investigatory if its purpose is to elicit information pertaining to the perceived misconduct. *ITT Lighting Fixtures v. NLRB*, 719 F.2d 851, 853 (6th Cir. 1983). An investigatory interview is one where the employer seeks facts or evidence in support of the perceived misconduct. *Baton Rouge Water Works Co.*, 246 NLRB 995 (1979).

The March 7 meeting was not investigatory under either party's version of the events. Wooten does not allege that Bumphis asked her any questions or attempted to elicit any information during the meeting. According to the District, the purpose of the meeting was to advise Wooten of its decision to non-renew her employment, a decision that had been made prior to the meeting. Wooten's *Weingarten* rights did not attach to the March 7 meeting because it was not investigatory in nature. Even if the meeting had been investigatory, Wooten's *Weingarten* rights did not attach because there is no evidence that she asked for a Union representative.

Wooten's second exception is that the Executive Director erred in dismissing the portion of her charge arising from her dispute over her rights under the collective bargaining agreement. In particular, she complains that the Executive Director failed to consider whether the *Interboro* doctrine was violated because she believed in good faith that the collective bargaining agreement prohibited the District from requiring her to be at her classroom door at 7:55 a.m. Under the *Interboro* doctrine, an individual employee engages in concerted activity by invoking a right provided in the collective bargaining agreement. *NLRB v. Interboro Contractors, Inc.*, 157 NLRB 1295 (1966), *enf'd*, 388 F.2d 495 (2d Cir. 1967); *NLRB v. City Disposal Systems, Inc.*, 465 U.S. 822 (1984); *Board of Education of Schaumburg CCSD 54 v. IELRB*, 247 Ill. App. 3d 439, 616 N.E.2d 1281 (1st Dist. 1983). Wooten's exceptions misconstrue the *Interboro* doctrine, arguing that because she was non-renewed for exercising what she purportedly believed to be her contractual right, to not have to be present in her classroom at 7:55 a.m. each day, the District had no right to non-renew her for not being present in her classroom at 7:55 a.m. each day. Yet

there is nothing in the record that Wooten ever told the District that she believed herself to be asserting any rights under the collective bargaining agreement by not being present in her classroom at 7:55 a.m. To the contrary, minutes after her November 28 discussion with District Assistant Principal Steven Granat (Granat) during which he emphasized she had to be present in her classroom at 7:55 a.m. to supervise her students, Wooten sent Granat an email acknowledging that she needed to be in her classroom at 7:55 a.m. and expressing remorse for failing to have consistently done so. There is no evidence that by not being present in her classroom at 7:55 a.m., Wooten tried to enforce any provisions of the collective bargaining agreement.

There was no showing that Wooten based her actions on matters protected by the collective bargaining agreement and there was no showing that the District non-renewed her because she complained about matters protected by the collective bargaining agreement. The record shows nothing more than a general broad claim by Wooten in her charge and exceptions that the collective bargaining agreement did not obligate her to be in her classroom five minutes early.

Wooten's third exception is that the Executive Director erred in failing to find evidence of retaliation for her concerted activity. Again, she argues that she engaged in protected activity by asserting a right under the collective bargaining agreement for which the District retaliated against her by non-renewing her employment. Even though I recommend the Board find that her belief that she was not obligated by the contract to be in her classroom at 7:55 a.m. did not amount to protected activity, she clearly engaged in protected activity when she brought union representation with her to the December 21 meeting with District administrators, of which the District was necessarily aware.

As evidence of the District's unlawful motive, Wooten offers that the District gave shifting explanations for her non-renewal, including a reduction in force, insubordination, and alleged racist behavior. According to Wooten, Bumphis told her at the March 7 meeting that the District lacked a spot for her based on student numbers, but when asked why she could not be sent to another of the District's schools, Bumphis said that the administration found her constant tardiness to be insubordinate behavior. Thereafter, the District maintained that it non-renewed Wooten for that reason. The record does not indicate the District ever cited a reduction in force or alleged racist behavior as reasons for the adverse action. When Wooten asserted at the March

13 meeting that she had never been assigned a mentor, District Principal Theresa Nolan (Nolan) explained that her assigned mentor later declined to be her mentor due to Wooten's alleged insensitive racial comments. However, the record does not indicate the District ever cited this as a reason for the adverse action.

Wooten also asserts there was "extensive evidence" of the District's hostility toward the union. But she submitted no evidence in support of her claim, except for this bare assertion. Wooten reported that Nolan remarked during their March 8 meeting that she did not expect first-year teachers at her school to bring the union to a meeting, which she took to mean the December 21 meeting. The Executive Director observed that Nolan's alleged remark was the only possible evidence of hostility by the District toward unionization but gave greater weight to Bumphis' letter inviting Wooten to the December 21 meeting specified that she was welcome to bring union representation with her. Statements of an employer offered as evidence of union animus must be examined to determine whether the content and context of the statements manifest a hostility to the union or the protected activity strong enough to support a conclusion that the employer was willing to violate the law by discriminating against the employees. *Clerk of the Circuit Court of Champaign County*, 8 PERI ¶2025 (IL SLRB 1992). An inference of retaliatory intent is not readily derived from isolated remarks which contain no explicit threats of reprisal or force of promise of benefit. *NLRB v. Stor-Rite Metal Products, Inc.*, 856 F.2d 957 (7th Cir. 1988); *Stokely-Van Camp, Inc. v. NLRB*, 722 F.2d 1324 (7th Cir. 1983). Based on the record before us, Nolan's alleged comment, even taken as truly having been made, was too ambiguous to be construed as evidence of hostility when coupled with Bumphis' invitation for Wooten to bring a union representative to the meeting. The District's established displeasure with Wooten's continued failure to be present in her classroom at 7:55 a.m. that began well before the December 21 meeting, was the impetus for the December 21 meeting, and was the District' proffered reason for the adverse action. *City of Decatur*, 13 PERI ¶2017 (IL SLRB 1997). Because there is no evidence that the District non-renewed Wooten's employment in retaliation for her protected union activity, we affirm the dismissal of her charge in its entirety.

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). Because motive is a question of fact, it can be inferred from either direct or circumstantial evidence. *Burbank*, 128 Ill. 2d 335, 538 N.E.2d 1146. Unlawful motive can be demonstrated by various factors, including expressions of hostility toward unionization, together with knowledge of the employee's union activities; timing of the adverse action in relation to the occurrence of the union activity; disparate treatment or targeting of union supporters; inconsistencies between the reason offered by the respondent for the adverse action and other actions of the respondent; and shifting explanations for the adverse action. *Id.*

IV. Order

For the reasons discussed above, IT IS HEREBY ORDERED that Executive Director's Recommended Decision and Order is affirmed and the charge is dismissed in its entirety.

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: **June 16, 2025**
Issued: **June 16, 2025**

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

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

/s/ Michelle Ishmael
Michelle Ishmael, Member

Member Grossman, concurring in part and dissenting in part

I concur with the majority's determination that Wooten's *Weingarten r*ights did not attach to the March 7 meeting. It was not investigatory in nature, and she did not provide sufficient evidence that she requested Union representation. Likewise, I concur that Wooten failed to support her theory that she invoked the *Interboro* doctrine as it related to her right to arrive at her classroom after 7:55 a.m.

I respectfully disagree with my colleagues' conclusion that a complaint should not be issued alleging that the District violated Section 14(a)(3) of the Act.

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." To establish a *prima facie* violation of 14(a)(3), Wooten needed to submit evidence that she engaged in union activity, the District was aware of that activity, and that it took adverse action against her 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. *City of Burbank v. Illinois State Labor Relations Board*, 128 Ill. 2d 335, 345–346, 538 N.E.2d 1146, 1149–1150 (1989). Wooten engaged in protected union activity when she brought Union representation with her to the December 21 meeting, which the District was aware of because it was present at the meeting. The District took adverse action against Wooten when it non-renewed her employment. The majority argues that the District expressed concerns about its legitimate reason for the adverse action, Wooten's continued inability to be in her classroom at 7:55 a.m., before she engaged in union activity. Yet the legitimacy of the District's proffered reason would be negated by any superseding unlawful motive. The question is whether the District would have given Wooten a lesser punishment had she not engaged in union activity.

Unlawful motive can be demonstrated by expressions of hostility toward unionization, together with knowledge of the employee's union activities; timing of the adverse action in relation to the occurrence of the union activity; disparate treatment or targeting of union supporters; inconsistencies between the reason offered by the respondent for the adverse action and other actions of the respondent; and shifting explanations for the adverse action. *Id.* In her

charge, Wooten contends that Principal Nolan told her that she did not expect first-year teachers to bring the Union to a meeting. I believe this comment is sufficient evidence of hostility toward the Union to establish an issue of law or fact for a complaint to issue. This does not mean that the District violated the Act. It simply means that Wooten presented enough evidence during the investigation to warrant a hearing.

The initial investigation presented enough evidence to show a *prima facie* case of a violation of the Act and I would have remanded the matter to the Executive Director for issuance of a complaint. For the reasons outlined above, I respectfully dissent in part.

/s/ Steve Grossman
Steve Grossman, Member

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STATE OF ILLINOIS
ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

Kristen Wooten,	)	
Complainant	)	
and	)	Case No. 2025-CA-0012-C
Bremen Community High School District 228,	)	
Respondent	)	

EXECUTIVE DIRECTOR'S RECOMMENDED DECISION AND ORDER

I. THE UNFAIR LABOR PRACTICE CHARGE

On August 22, 2024, Charging Party, Kristen Wooten, filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (IELRB or Board) in the above-captioned case, alleging Respondent, Bremen Community High School District 228, violated Section 14(a) of the Illinois Educational Labor Relations Act (Act), 115 ILCS 5/1, *et seq.* 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

Bremen Community High School District 228 (District) 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, Wooten was an educational employee within the meaning of Section 2(b) of the Act, employed by Respondent in the job title or classification of Teacher.

B. Facts relevant to the unfair labor practice charge

The District hired Wooten at the outset of the 2023-2024 school year, as a first-year probationary teacher at its Tinley Park High School. Wooten's first class began at 8:00 a.m. The District keeps its classroom doors closed and locked when not in use. Wooten's students generally started arriving at her classroom door between 7:55 a.m. and 8:00 a.m. As a result, because Wooten was not arriving until at or about 8:00 a.m., her students milled about her classroom doorway and the nearby washroom, waiting for

her to open the classroom door. Early in the school year, Steven Granat, one of the high school's assistant principals, discuss the matter with Wooten, explaining it was imperative she be present at 7:55 a.m., in her classroom, to supervise her students. Wooten apparently continued to be unable to be at her classroom by 7:55 a.m., as she requested another teacher, Nicole D'Onofrio, to open her door so her students could access the classroom. The District found this solution problematic, as Wooten's students were left unsupervised in her classroom. Granat had a second discussion with Wooten, emphasizing she had to be present at 7:55 a.m., in her classroom, to supervise her students.

On November 28, 2023, Granat found Wooten's students in the hallway outside her classroom, waiting for her to arrive, so he let them into her classroom and supervised them. When Wooten arrived, Granat had another discussion with her, again emphasizing she had to be present at 7:55 a.m., in her classroom, to supervise her students. Wooten sent Granat an email at 8:10 a.m. the same day, expressing remorse for failing to be in her classroom on time.

On November 30, 2023, because Wooten was tardy, D'Onofrio again unlocked her classroom door for her students. Granat learned of this, and asked another of the high school's assistant principals, Wendy Bumphis, to remind Wooten she had to be present in her classroom at 7:55 a.m. Bumphis did as asked, but Wooten apparently continued to arrive late, as the issue came to the attention of the high school's principal, Theresa Nolan. On December 20, 2023, Nolan and Bumphis waited at Wooten's classroom to see when she arrived. The school was administering final exams on December 20, and operating on a final exam schedule. The school scheduled Wooten to administer a final exam beginning at 9:05 a.m., however she did not arrive until 9:04 a.m. In the meantime, Nolan and Bumphis opened Wooten's classroom and supervised her students until she arrived.

Later, December 20, 2023, Nolan directed Bumphis to contact Wooten and set up a meeting with her for the next day, to reinforce and memorialize the timeliness directives she previously received from Granat and Bumphis. Bumphis did as Nolan requested, setting up the meeting with Wooten for December 21, 2023. In her note to Wooten, requesting the meeting, Bumphis invited her to bring a union representative with her if she so desired. On December 21, Wooten, Bumphis, Granat, and Wooten's union representative, Megan Ipema, met and reviewed the earlier directives, and discussed Wooten's responsibility to be in her classroom five minutes prior to the start of her classes. Bumphis and Granat also warned Wooten should she continue her pattern of showing up late for class, their next meeting might result

in disciplinary consequences. About six weeks later, in early February 2024, the District decided to non-renew Wooten's employment.

Bumphis met with Wooten approximately a month later, on March 7, 2024, to notify her she was being non-renewed and to offer her the opportunity to resign instead. Wooten asserts Bumphis told her the District was terminating her employment because it lacks a spot for her based-on student numbers. When Wooten questioned Bumphis further as to the reason for her dismissal, Bumphis admitted Wooten was a great teacher, but the school administration found her constant tardiness insubordinate behavior. Wooten declined to resign.

The next day, March 8, 2024, Nolan visited Wooten at her classroom at the end of the day, explaining she heard from Bumphis, Wooten was upset she was not at the March 7 meeting. According to Wooten, she and Nolan had a fifteen-year relationship and thought Nolan would be at such a significant meeting. Nolan did not agree she needed to attend the meeting. Wooten went on to contend she was unaware of any issue with her performance, but Nolan explained it was negligence when she was not at her classroom door when it was her obligation, as apparently in October 2023, fights between students broke out in the hallway for which she had responsibility. Wooten responded she had to travel to the classroom where the fights occurred, and asserts Nolan replied, "Besides, I do not expect first-year teachers in my school to bring the union to a meeting." Wooten believed Nolan to be referring to the December 21, 2023 meeting with herself, Bumphis, Granat, and Ipema. Nonetheless, Wooten understood the reason the District was dismissing her due to her insubordinate behavior regarding the timeliness directives.

On March 12, 2024, Nolan sent Wooten a notice of a meeting to discuss the March 8 meeting, to take place the next day, March 13. Nolan, Bumphis, Granat, and Ipema attended the March 13 meeting with Wooten. In addition, Ipema brought a union representative, Keith Huhn, and Wooten had a union representative, Greg Fitch. The meeting began about 11:30 a.m. and lasted about forty minutes. According to Wooten, Nolan discussed Wooten's complaints the school's expectations of her, and its procedures were vague, as she believed there was no contractual obligation for her to be at her classroom five minutes prior to the start of her classes. The group also discussed Wooten's assertion she had not been provided a mentor. Nolan contradicted her, explaining the mentor she was assigned later declined to be her mentor due to Wooten's insensitive racial comments. Wooten denied she made such comments. The meeting broke up shortly thereafter.

The District's board of education non-renewed Wooten's employment on or about March 20, 2024. Neither Wooten, nor the union on her behalf, filed a grievance challenging the obligation for her to be at her classroom five minutes prior to the start of her classes.

In her charge form, Wooten claimed Bumphis interviewed her and questioned her as to her "feelings" about being in the union and whether being in the union would cloud her judgment as to what was best for the school, however, there is no evidence as to when the interview occurred or any further details or context regarding it. Likewise, also in her charge form, Wooten asserted the District's administration team at its Tinley Park High School has a well-known bias against those who participate in the union, but again, provided no evidence in support of this allegation.

III. THE PARTIES' POSITIONS

Herein, Wooten contends the District violated the Act in that it denied her right to union representation at the March 7, 2024 meeting, and intimidated and harassed her due to her support for the union. Wooten further asserts the District's conduct in this regard breached the duty to bargain in good faith. The District denies it violated the Act, arguing that it treated Wooten no differently than similarly situated employees.

IV. DISCUSSION AND ANALYSIS

A. The alleged 14(a)(1) violation

In NLRB v. Weingarten, Inc., 420 U.S. 251 (1975), the United States Supreme Court held that an employer's denial of an employee's request that a union representative be present at an investigatory interview which the employee reasonably believes might result in disciplinary action constitutes an unfair labor practice in violation of Section 8(a)(1) of the National Labor Relations Act (NLRA), 29 U.S.C. §§151 *et seq.*[1] The rationale behind the holding is that denial of an employee's request for union representation interferes with, restrains and coerces the employee who, in seeking the assistance of his or her union representative, seeks "mutual aid or protection" against a perceived threat to his or her employment security. The union representative is therefore present to safeguard not only the individual employee's interest, but also the interests of all members of the bargaining unit, by ensuring that the employer does not initiate or

[1]Section 8(a)(1) of the NLRA provides that it is an unfair labor practice for an employer to interfere with, restrain or coerce employees in the exercise of the rights guaranteed in the NLRA, 29 U.S.C. §§158(a)(1). Section 8(a)(1) of the NLRA is quite similar to Section 14(a)(1) of the Act which provides that it shall be an unfair labor practice for an employer or its agent to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed therein.

continue a practice of unjustly imposing punishment. The Board adopted this reasoning in Summit Hill Council, Local No. 604, IFT-AFT, AFL-CIO/Summit Hill School District 161, 4 PERI ¶1009, 1987 WL 1435330 (IL ELRB 1987), wherein the Board held that an employee has a right to union representation when the following three circumstances exist: 1. the meeting between the employee and his or her superiors is investigatory;[2] 2. the employee reasonably believes that disciplinary action may result;[3] and 3. the employee requests union representation. See also, Southwest Suburban Federation of Teachers, IFT/AFT/Gen. George S. Patton School District 133, 10 PERI ¶1118, 1994 WL 16839705 (IL ELRB 1994); City of Chicago (Department of Police), 5 PERI ¶3025 (1989); State of Illinois (Departments of Central Management Services and Employment Security), 4 PERI ¶2005 (IL SLRB 1988).

As an initial matter, there is no evidence the March 7, 2024 meeting between Bumphis and Wooten was investigatory, as it was convened solely to notify Wooten, the District was not going to renew her employment for the following school year and to offer her to opportunity to resign, rather than to obtain facts or evidence in support of misconduct. Nor is there evidence that once the meeting commenced, the purpose changed such that the meeting became investigatory. Plainly, being notified her employment would not be renewed is unpleasant, however, there is no evidence, or even an allegation, Bumphis questioned Wooten or asked her to give any information or evidence that could be used against her in disciplinary proceedings. Nor is there evidence or an allegation Wooten was disciplined based on information elicited at this meeting, or in fact, that she was ever disciplined. Simply put, the March 7 meeting was not investigatory, and therefore, Wooten's Weingarten rights did not attach. Baton Rouge Water Works, 246 NLRB 955, 103 L.R.R.M. 1056, 1979 WL 9560 (1979) (no right to the presence of a union representative in a meeting with employer "held solely for the purpose of informing the employee of...previously made disciplinary decision"). *See also* Governing Board of Special Education Joint

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[2]Federal courts have defined a meeting as "investigatory" if it is to elicit information pertaining to the perceived misconduct. ITT Corp. v. NLRB, 719 F.2d 851, 853 (6th Cir. 1983). The definition the National Labor Relations Board (NLRB) uses is somewhat more detailed, terming an interview investigatory if it is one where the employer seeks facts or evidence in support of the perceived misconduct. Baton Rouge Water Works, 246 NLRB 955, 103 L.R.R.M. 1056, 1979 WL 9560 (1979).

[3]It is irrelevant whether the employee actually believed disciplinary action might result, as the standard for determining whether an employee reasonably expects discipline is "objective", measured in light of all the circumstances of the case. Weingarten, 420 U.S. 251; Southwest Suburban Federation of Teachers, IFT-AFT, AFL-CIO/Gen. George S. Patton School District 133, 10 PERI ¶1118, 1994 WL 16839705 (IL ELRB 1994); Policemen's Benevolent Labor Committee/City of Ottawa, 25 PERI ¶43, 2009 WL 8154383 (IL LRB-SP 2009); Eisenberg/Chicago Transit Authority, 17 PERI ¶3018, 2001 WL 36364635 (IL LRB-LP 2001); State of Illinois (Departments of Central Management Services and Employment Security), 4 PERI ¶2005, 1988 WL 1588632 (IL SLRB 1988).

Agreement District 802 v. Rachel Warning, 242 Ill. 2d 92, 950 N.E.2d 1069, 28 PERI ¶1, 190 L.R.R.M. 2804, 2011 WL 2713666 (2011).

If an employer disciplines or otherwise retaliates against an employee for asserting Weingarten, the employer violates Section 14(a)(1) of the Act, as it is retaliating against the employee for engaging in protected concerted activity. NLRB v. Weingarten, Inc., 420 U.S. 251 (1975). For the Board to issue a complaint for hearing based on such an allegation, the employee, Wooten, must at least be able to make some showing the District took adverse action against her for asserting her rights under Weingarten. Neponset Community Unit School District No. 307, 13 PERI 1089, 1997 WL 34820232 (IELRB 1997). Herein, there was no such evidence.

Wooten made a sufficient showing she engaged in protected activity, as she brought union representation to the December 21, 2023 meeting. Likewise, Respondent knew of the protected activity Wooten engaged in, as District agents, Bumphis and Granat, witnessed it. The adverse action element is satisfied by the District's termination of Wooten's employment. Nonetheless, Wooten's claim fails, as the investigatory facts do not indicate the complained-of act was committed against her because of, or in retaliation for, the exercise of rights protected under the Act. Consequently, she cannot make any showing as to the causation element.

As the Illinois Supreme Court noted in City of Burbank, the existence of a causal link herein indicating the complained-of act was committed against Wooten because of, or in retaliation for, the exercise of rights protected under the Act, is a fact based inquiry and may be inferred from various factors, including: an employer's expressed hostility towards unionization or grievance filing, together with knowledge of the employee's protected activities; proximity in time between the employee's protected activities and the disciplinary action; inconsistencies between the proffered reason for discipline and other actions of the employer; shifting explanations for the discipline or discharge of the employee; and disparate treatment of employees or a pattern of conduct which targets union supporters for adverse employment action. City of Burbank v. ISLRB, 128 Ill. 2d 335, 538 N.E.2d 1146, 5 PERI ¶4013 (1989) (citations omitted). The evidence in this matter, however, does not reveal a causal connection between Wooten's protected activity and the adverse action.

The District asserts it non-renewed Wooten's employment due to her inability or refusal to be at her classroom five minutes prior to the start of her classes, which it came to see as insubordinate behavior.

Wooten disputes this was the reason for her dismissal, asserting her belief the District was upset or displeased she insisted on union representation at the December 21 meeting. However, Wooten proffered no evidence of the District's displeasure, or other evidence which would support her belief in this regard. Moreover, the existing evidence does not reveal a causal connection between her protected activity and the adverse action. The only possible evidence of hostility by the District toward unionization in general is Nolan's statement during the March 8, 2024 meeting with Wooten, in which she said, "Besides, I do not expect first-year teachers in my school to bring the union to a meeting", although Bumphis had invited Wooten to do exactly that. Otherwise, there was no evidence of hostility or enmity between the union and Bumphis, Granat, Nolan, or anyone else in District administration. There was no evidence of inconsistencies between the District's proffered reasons for non-renewing Wooten's employment and its other actions. Likewise, there is no allegation or evidence of shifting explanations by the District for its conduct in connection with Wooten. Regarding the disparate treatment factor, the relevant inquiry is whether the District treated employees similarly situated to Wooten, in a manner better than she was treated, and herein, there is no evidence this occurred. In other words, there was no evidence the District allowed other teachers to ignore the responsibility to be at their classroom five minutes prior to the start of their classes, without consequences. Simply put, there is no evidence whatsoever the District's non-renewal of Wooten's employment was in retaliation for the protected activity she engaged in. Without some showing Wooten's protected activity caused the District to take the complained-of action, her claim fails to raise an issue of law or fact sufficient to warrant a hearing.

B. The alleged 14(a)(3) violation

Wooten's 14(a)(3) claim is flawed in the same manner as her 14(a)(1) claim. To obtain a complaint on her 14(a)(3) allegation, the Wooten must at least be able to make some showing she engaged in protected union activity, Respondent knew of that activity, and Respondent took adverse action against her as a result of her involvement in that activity in order to encourage or discourage union membership or support. City of Burbank v. ISLRB, 128 Ill. 2d 335, 538 N.E.2d 1146, 5 PERI ¶4013 (1989); Bloom Twp. High School Dist. 206 v. Illinois Educational Labor Relations Board, 312 Ill. App. 3d 943, 728 N.E.2d 612, 164 LRRM 2284 (1st Dist. 2000); City of Peoria School Dist. No. 150 v. Illinois Educational Labor Relations Board, 318 Ill. App. 3d 144, 741 N.E.2d 690, 166 LRRM 2886 (4th Dist. 2000).

As discussed above, the evidence is clear Wooten engaged in protected activity, which arguably may be considered union activity, the District knew of that activity, and the District took adverse action against her. However, again, there is no evidence the District took the adverse action, that is, non-renewed her employment, due to her involvement in protected union activity, or of the requisite intent. As noted above, there is no evidence of a causal connection between Wooten's protected activity and the adverse action. Thus, this aspect of Wooten's claim likewise fails to raise an issue of law or fact sufficient to warrant a hearing.

C. The alleged 14(a)(5) violation

An individual employee may not bring an action regarding the breach of the duty to bargain in good faith, and thus, Wooten does not have standing to file a charge under 14(a)(5). Priestly/Teamsters, Local 726, 13 PERI ¶1112, fn. 1, 1997 WL 34820253, fn. 1 (IL ELRB 1997); Basil C. Halkides, *et al.*/Thornton Community College Dist. 510, 4 PERI ¶1010, 1987 WL 1435331 (IL ELRB 1987); Teachers Action Caucus, *et al.*/Chicago Board of Education, 2 PERI ¶1040, 1986 WL 1234515 (IL ELRB 1986) (individuals lack standing to file bargaining charges).

Section 14(a)(5) provides "[e]ducational employers...are prohibited from [r]efusing to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit." This subsection concerns the bilateral or mutual obligations of employers and labor organizations to bargain in good faith. These duties extend only to the particular employer and exclusive representative, and therefore, correspondingly, an action concerning such obligations may only be brought by the particular employer and exclusive representative, not by an individual employee. Priestly, 13 PERI ¶1112, fn. 1, 1997 WL 34820253, fn. 1; Teachers Action Caucus, 2 PERI ¶1040, 1986 WL 1234515. Thus, even if Wooten had presented facts relating to a violation of Section 14(a)(5), she lacks standing to pursue such a claim.

V. ORDER

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

VI. EXCEPTIONS

In accordance with Section 1120.30(c) of the Board's 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 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, 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 1120.30(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 4th day of March, 2025.

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Victor E. Blackwell

Victor E. Blackwell
Executive Director