

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Peoria School District 150,	)	
	)	
Respondent	)	
	)	
and	)	Case No. 2024-CA-0040-C
	)	
American Federation of State, County,	)	
and Municipal Employees, Council 31,	)	
	)	
Complainant	)	

OPINION AND ORDER

I. Statement of the Case

On February 6, 2024, American Federation of State, County, and Municipal Employees, Council 31 (AFSCME or Union) filed a charge with the Illinois Educational Labor Relations Board (Board or IELRB) in the above-captioned matter alleging that Peoria School District 150 (District or Employer) 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 Complaint and Notice of Hearing (Complaint) on May 24, 2024 alleging that the District violated Section 14(a)(5) and (1) of the Act by failing to furnish the Union with information it requested concerning the qualifications of the candidates for the summer driver trainer position (trainer) and the District's evaluations thereof that would have been relevant in a pending grievance. The parties appeared for a hearing before Administrative Law Judge Nick Gutierrez (ALJ) on October 16, 2024. On March 11, 2026, the ALJ issued a Recommended Decision and Order (ALJRDO) finding that the District violated 14(a)(5) and (1) of the Act. The District filed timely exceptions to the ALJRDO on April 1, 2026, and the Union filed a timely response to the exceptions on April 20, 2026.

II. Factual Background

Pages 2 and 5 of the ALJRDO state that bargaining unit member and Union President Timothy Sullivan (Sullivan) sent an email to District Assistant Director of Transportation Rolf Sivertsen (Sivertsen) on June 20, 2023, requesting certain information regarding a grievance (June 20 request). However, pages 3 and 4 of the ALJRDO state it was made on June 23. The

email itself (Joint Ex. 3) is dated June 20, and the parties' submissions to the Board refer to the request as having been made on June 20. This leads us to conclude that the ALJ's references to June 23 are typos. The ALJRDO is corrected so that all references to June 23 on pages 3 and 4 refer to June 20.

Aside from that correction, we adopt the facts as set forth in the underlying ALJRDO. Because the ALJRDO 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 ALJ found that the District violated Section 14(a)(5) and (1) of the Act by failing to provide information to which the Union was entitled, in connection with a grievance filed on behalf of a bargaining unit member. The District filed the following exceptions to the ALJRDO: (1) the ALJ failed to consider the crux of the underlying grievance leading him to find, in error, that the requested information would assist the Union in carrying out its statutory duties and responsibilities; (2) even if the requested information is germane to the underlying grievance, which the District maintains it is not, the District provided the information necessary for the Union to carry out its statutory duties and responsibilities with respect to the underlying grievance; and, in the alternative, (3) the District met its burden of demonstrating it has a confidentiality interest in the documents it withheld.

Section 14(a)(5) of the Act prohibits educational employers from "[r]efusing to bargain collectively in good faith with an employee representative which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussion of grievances." An employer's refusal to provide requested information necessary for processing grievances violates Section 14(a)(5) of the Act. *Chicago School Reform Board of Trustees v. IELRB*, 315 Ill. App. 3d 522, 734 N.E.2d 69 (1st Dist. 2000); *Thornton Community College*, 5 PERI 1003, Case No. 88-CA-0008-C (IELRB Opinion and Order, November 29, 1988). In this case, the District refused to provide interview notes and other material used to document and determine scores for the interview and presentation element of the trainer hiring process, as well as information related to the objective portion of the process. This information, said the ALJ, was needed by the Union

in order to carry out its duty as exclusive representative because it was related to a grievance filed on behalf of bargaining unit member Sullivan.

A. Requested Information and the Crux of the Grievance

The District's first exception asks us to overturn the ALJRDO because the ALJ failed to consider the crux of the grievance, which led him to find, in error, that the requested information would assist the Union in carrying out its statutory duties and responsibilities. The District characterizes the crux of the grievance as the assertion that the District violated the CBA when it failed to consider Sullivan's seniority in selecting candidates for the position and instead selected candidates based on a best ability standard. It argues that the Union did not need the outstanding information in order to process a grievance alleging that the District should have considered seniority rather than applying the best ability standard.

A union is not entitled to all information held by management. The requested information must be directly related to the union's function as a bargaining representative and must appear reasonably necessary for the performance of that function. *Chicago School Reform Board of Trustees*, 315 Ill. App. 3d 522, 734 N.E.2d 69. The standard for determining relevancy is liberal, and there only needs to be the probability that the desired information is relevant and that it would be of use to the union in carrying out its statutory duties and responsibilities. *Alton Community Unit Sch. Dist. 11*, 21 PERI 79, Case No. 2002-CA-0051-S (IELRB Opinion and Order, March 23, 2005).

The District asserts that the timing of the information request, after the grievance was filed but before the step one response, underscores the notion that the Union does and did not need the information the District withheld in order to properly process the grievance. However, an employer's duty to provide information relative to a grievance does not cease once the grievance is filed. *Cf. Chesapeake and Potomac Tel. Co. v. NLRB*, 687 F.2d 633 (2d Cir. 1982) (duty to provide information continues after grievance filing). Adequate information allows a union to evaluate the strength of its claim, eliminate claims that lack merit at an early stage in the grievance process, as well as to prepare for arbitration. *NLRB v. Pfizer*, 763 F.2d 887 (7th Cir. 1985); *General Motors v. NLRB*, 700 F.2d 1083 (6th Cir. 1983); *SBC Midwest*, 346 NLRB 62 (2005). In this case,

although the information was requested after the grievance was filed, it could and can still be of use to the Union to determine the merits of the grievance, how far to pursue the claim, as well as to support its assertion of a contract violation. The clock does not stop on any of those activities once a grievance is filed. Thus, the Employer's assertion that the timing of the request in this case relieved it of its duty to provide the requested information fails.

The District contends that the manner it used to determine best ability is irrelevant because that was not the basis of the grievance. While the grievance alleges that the District should have considered seniority rather than best ability, it further claims "[i]n addition, the process and evaluation and selection was not done in a fair manner." Joint Exhibit 2. As a result, information related to the manner the District used to determine best ability is relevant to the Union's ability to process a grievance that alleges, in part, that the District's process, evaluation, and selection was not conducted in a fair manner. Furthermore, the determination of relevancy is decided under a discovery-standard, rather than a trial-type standard. *Board of Educ. of City of Chicago v. IELRB*, 2013 IL App (1st) 122447, ¶ 16; *Alton*, 21 PERI 79; *Dupo Community Unit Sch. Dist. #196*, 13 PERI 1044, Case No. 96-CA-0021-S (IELRB Opinion and Order, March 5, 1997). Great latitude is allowed in the scope of discovery. *Oak Lawn Community High Sch. Dist. 229*, 23 PERI 167, Case No. 2005-CA-0080-C (IELRB Opinion and Order, December 11, 2007); *TTX Co. v. Whitley*, 295 Ill. App. 3d 548, 692 N.E.2d 790 (1st Dist. 1998). Discovery includes not only what is admissible at trial, but also that which leads to what is admissible. *Oak Lawn*; *Whitley*. The Union is entitled to request and receive information that substantiates, undercuts, or in any way informs its good faith efforts at contract administration. *American Benefit Corp.*, 354 NLRB 1039, 1051 (2010). "The Board need only decide whether the information sought has some 'bearing' on these issues or would be of use to the union." *Dodger Theatricals Holdings*, 347 NLRB 953, 970 (2006). Unions are allowed a broad range of potentially useful information for the purpose of effectuating the bargaining process. *Highland Community College*, 41 PERI 51, Case No. 2022-CA-0033-C (IELRB Opinion and Order, September 18, 2024), citing *Proctor & Gamble Manufacturing v. NLRB*, 603 F.2d 1310, 1315 (8th Cir. 1979). Accordingly, we find no merit in the District's first exception.

B. Sufficiency of Information

The District's second exception is that even if the outstanding information was related to the grievance, the information it provided was sufficient for the Union to perform its duty with respect to determining whether Sullivan's ability to perform the work required of a trainer was equal to the other candidates'. In other words, even though the District only gave the Union some of the requested information, that information was enough for the Union to carry out its duty as exclusive representative, absolving the District of its duty to provide the remainder.

An employer cannot simply present requested information in any form that it considers adequate. *J.I. Case Co. v. NLRB*, 253 F.2d 149 (7th Cir. 1958). Absent an employer's bona fide objection, *see* discussion *infra* addressing confidentiality, unions are entitled to review original documents, and not to be limited to summaries and the employer's representations as to the documents' contents. *See National Grid USA Serv. Co., Inc.*, 348 NLRB 1235, 1247 (2006); *Ormet Aluminum Mill Products*, 335 NLRB 788, 802 (2001); *New York Telephone Co.*, 299 NLRB 351, 357 (1990), *enfd.* 930 F.2d 1009 (2d Cir. 1991) (union does not have to take the employer's word that information provided is complete but is entitled to information from which it may verify the response). In this case, the District's assertion that what it represents to be summaries of the requested information was enough for the Union to perform its duty as exclusive representative does not mean that it did not have to provide the Union with the requested information. As a result, we find no merit in the District's second exception.

C. Confidentiality

The District's third exception asks us not to adopt the ALJRDO because the District met its burden of demonstrating that it had a confidential interest in the documents it withheld.

Even when the information is presumptively relevant, a union will not be entitled to the information requested when an employer has raised a bona fide objection, such as a reasonably good faith confidentiality concern. *Alton*, 21 PERI 79; *Dupo*, 13 PERI 1044. Yet these defenses are narrowly construed and the burden to prove them is upon the party asserting the defense. *County of Cook v. Illinois Local Labor Relations Bd.*, 266 Ill. App. 3d 53, 639 N.E.2d 187 (1st Dist. 1994); *Detroit Edison Co. v. NLRB*, 440 U.S. 301 (1979). When an employer asserts the

confidentiality defense, the union's need for the information is balanced against any legitimate and substantial confidentiality interests raised by the employer. *Alton*. According to the District, it was justified in its refusal because providing interview notes and test questions would give an unfair advantage to employees applying for the position in the future. The Illinois Labor Relations Board relied, in part, on an employer's confidentiality concerns in finding that its refusal to disclose questions and answers for a promotional exam did not amount to an unfair labor practice in *City of Bloomington*, 19 PERI ¶11 (IL LRB-SP 2003). The position to which the test applied in *Bloomington* was a permanent promotion, Lieutenant for the respondent-city's police force. In contrast, the position in this case is a short-term summer position, where the three successful candidates have performed the job at least once before. As the ALJ observed, the fact that the same employees take the same test every year in this case diminishes the District's interest in confidentiality.

In its response to the exceptions, the Union claims that the confidentiality defense fails because the District did not negotiate with the Union to seek an accommodation at the time of its refusal to provide the information. The party asserting confidentiality cannot merely refuse to provide the requested information. Conversely, it has a duty to attempt to accommodate the request and engage in bargaining to seek a resolution that addresses both parties' needs. *County of Cook*, 266 Ill. App. 3d 53, 639 N.E.2d 187; *Howard Industries, Inc.*, 360 NLRB 891 (2014).

In this case, there is no evidence in the record that the District offered the Union any such accommodation. Its summary pages were not an attempt to accommodate the Union's interests. The information must be made available in a useful format. *County of Cook*, 266 Ill. App. 3d 53, 639 N.E.2d 187. The Union needed to independently verify the fairness of the District's hiring process as it related to the objective portion of the exam and a summary of the overall test results were not useful in that situation. For that reason, we find that the District's failure to offer a reasonable accommodation reinforces the ALJ's conclusion that it did not meet its burden of establishing a confidential defense.

IV. Order

Respondent violated Section 14(a)(5) and, derivatively, Section 14(a)(1) of the Act by failing and refusing to provide its written notes and other material related to the subjective portions of the hiring process, and by failing and refusing to arrange for the transmission of information related to the objective process that gives Complainant the information needed to process its grievance while protecting Respondent's interest in confidentiality. The Administrative Law Judge's Recommended Decision and Order is affirmed.

For the reasons discussed above, IT IS HEREBY ORDERED that Respondent, Peoria School District 150, its officers, and agents shall:

1. Cease and Desist from:
 - (a) Refusing to bargain collectively in good faith with American Federation of State, County and Municipal Employees, Council 31.
 - (b) Failing or refusing to provide American Federation of State, County and Municipal Employees, Council 31 with requested information that is relevant and necessary for the proper performance of its representational duties.
 - (c) In any like or related manner interfering with, restraining, or coercing its employees in the exercise of rights guaranteed them in the Act.
2. Take the following affirmative action necessary to effectuate the policies of the Act:
 - (a) Provide American Federation of State, County and Municipal Employees, Council 31 with all interview notes and any other materials used to document and determine scores for the Interview and Presentation elements of the hiring process for the position of summer driver trainer.
 - (b) Provide American Federation of State, County and Municipal Employees, Council 31 with information regarding the Written and Multiple-Choice portions of the hiring process for the position of summer driver trainer in a manner that ensures that the District's interest in confidentiality is maintained while giving American Federation of State, County and Municipal Employees, Council 31 the information it needs to fulfill its obligations as exclusive bargaining agent.
 - (c) Post on bulletin boards or other places reserved for notices to employees for 60 consecutive days during which the majority of Peoria School District 150's employees are actively engaged in duties they perform for Respondent, signed copies the attached notice. Peoria School District 150 shall take reasonable steps to ensure that said notice is not altered, defaced, or covered by any other materials.

- (d) Notify the Executive Director, in writing, within 35 days after receipt of this order of the steps taken to comply with it.

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: **July 15, 2026**

Issued: **July 15, 2026**

/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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Municipal Employees, Council 31,	)	
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Complainant	)	
	)	
And	)	Case No. 2024-CA-0040-C
	)	
Peoria School District 150,	)	
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	)	
Respondent	)	

Administrative Law Judge’s Recommended Decision and Order

On February 6, 2024, Charging Party American Federation of State, County, and Municipal Employees, Council 31 (Union), filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (IELRB or Board) pursuant to Section 14 of the Illinois Educational Labor Relations Act (IELRA or Act), 115 ILCS 5/1, *et seq.*, against the Respondent, Peoria School District 150 (District). The charge alleges violations of Section 14(a)(5) and, derivatively, (1) of the Act. On May 28, 2024, the Executive Director issued a Complaint and Notice of Hearing on this charge. The parties appeared before the undersigned Administrative Law Judge for the IELRB on October 16, 2024. At the hearing, both parties had the opportunity to call, examine, and cross-examine witnesses, introduce documentary evidence, and present argument. Both parties filed post-hearing briefs on January 6, 2025.

I. Findings of Fact

During the hearing, Tim Sullivan and Nick Richards testified for the Union. (R. 17, 36). Joshua Collins testified for the Respondent. (R. 48).

At all times material, the District was an educational employer within the meaning of Section 2(a) of the Act and subject to the jurisdiction of the Board. (Agreed Statement of Uncontested Material Facts, Joint Ex. 13, hereinafter “Stipulations” at 2). At all times material, the Union was a labor organization within the meaning of Section 2(c) of the Act, and the exclusive representative of a bargaining unit comprised of certain of the District’s employees including those in the job title or classification of Transportation Bus Driver. (Stipulations at 3-4). The Union and District were parties to a Collective Bargaining

Agreement (CBA) for the aforementioned bargaining unit (“the unit” or “unit”) with a term of July 1, 2020 to June 30, 2023. (Joint Ex. 1, Stipulations at 6).

At all times material, the District employed Timothy Sullivan in the job title or classification of Bus Driver. (Stipulations at 7). At all times material, Sullivan served as Union President for the unit. (Stipulations at 9). At all times material, Nick Richards served as one of the Union’s designated representatives. (Stipulations at 10). At all times material, the District employed Joshua Collins as the Director of Transportation. (Stipulations at 11). At all times material, the District employed Rolf Sivertsen as the Assistant Director of Routing and Planning. (Stipulations at 12). At all times material, the District employed Dr. Alexander Ikejiaku as the Associate Superintendent for Human Resources, again a managerial employee outside of the unit. (Stipulations at 13). Collins, Sivertsen, and Ikejiaku are managerial employees whose job titles are not in the unit. (Stipulations at 11-13).

On or about June 8, 2023, the Union filed a grievance. (Joint Ex. 2, Stipulations at 14). On or about June 20, 2023, the Union requested information that the Union contended was relevant to the grievance. (Joint Ex. 3, Stipulations at 15). On or about August 8, 2023, the Union made another such information request related to the grievance. (Joint Ex. 4, Stipulations at 16). The District declined to produce certain documents related to the request, but the parties jointly submitted redacted versions of those documents as exhibits for the hearing. (Joint Ex. 7-11, Stipulations at 17-18). The District has access to non-redacted versions of these documents but the Union has never seen the non-redacted versions.

In the summer of 2023, Sullivan applied for a summer driver trainer position with the District. (R. 18-19). He was one of four applicants for three available positions. (R. 68). The District typically hires three trainers per summer. (R. 68). He passed an initial review comprised of requirements such as not having any accidents within the last year. (R. 19). He then took part in an evaluation process. (R. 20). The evaluation process consisted of a PowerPoint presentation, a portion that asked applicants to supply written answers to questions, some multiple-choice questions, and an interview. (R. 20). Sullivan testified that he was not told to keep the test information confidential. (R. 22). Following the evaluation process, Sullivan was informed that he was not chosen for a driver trainer position. (R. 22). He testified that the District’s training and safety supervisor, Jamie Jackson, informed him that they selected trainers based on ability and that seniority did not play a role in the decision. (R. 22-23). The three trainers that were hired for the summer of 2023 all had previous experience in the position. (Joint Ex 6).

Sullivan then met with Joshua Collins. (R. 23-24). Sullivan argued that Section 7.8(F) of the CBA meant that seniority should have been considered. That Section provides:

Notwithstanding the language of Article 7, the [District's Board of Education] may select and assign trainers on the basis of ability to perform the job. If the ability to perform the work of two or more employees is relatively equal, the employee with the greatest seniority within the bargaining unit shall be accorded the opportunity to fill the job.

(Joint Ex. 1 at 13). Sullivan testified that Collins told him that the provision only applied in circumstances where trainers were currently employed but that the number of trainers was being reduced. (R. 24). Collins testified that the provision would come into play when two candidates for a trainer position were equal or relatively equal in terms of ability. (R. 51).

On June 8, 2023, Sullivan filed a grievance. (R. 24, Joint Ex. 2). Sullivan sent an information request to Rolf Sivertsen on June 23 to obtain information relevant to the grievance. (R. 25, Joint Ex. 3). The information request sought five items:

1. All summary test result sheets for any applicants for the training assistant position.
2. All documents regarding each applicants [sic] tests, interviews[,] and presentations, including but not limited to all notes, all tests, all presentation notes, all interview notes, and any documents relating to grading of applicants.
3. All documents including emails describing the training assistant position.
4. All documents, notes, emails[,] or any other kind of document including texts referring or relating to the training assistant position, [and] the standard used to determine the results for the position.
5. Any and all documents relating to the training assistant position and the process by which training assistant candidates were graded and determined.

(Joint Ex. 3). Sivertsen sent Sullivan a letter on June 28 denying the grievance, stating that the selection of trainers was conducted in accordance with the CBA. (R. 26, Joint Ex. 5). Sullivan advanced his grievance to Level 2 on July 12. (R. 28, Union Ex. 4). Joshua Collins issued his decision denying the Level 2 grievance on August 1. (R. 29, Joint Ex. 6). At some point between July 12 and August 1, the parties met to discuss the grievance. (R. 30). Sullivan had not received a response to his information request at the time of the meeting. (R. 30). Following the denial of the Step 2 grievance, Sullivan testified that he contacted Union Staff Representative Nick Richards to advance the grievance further. (R. 31). Richards did so on August 8. (Joint Ex. 4).

Contained within the Level 2 grievance response was a remark made by Collins that Sullivan had, in the past, engaged in conduct that the administration believed was not “in line” with what it expected from the trainer position. (Joint Ex. 6). During his testimony, Collins claimed that he overheard Sullivan giving bad advice to a bargaining unit member, encouraging that unit member to give a false account. (R. 71-72). Sullivan was not disciplined for this incident. (R. 73). Collins claimed that he was aware of other incidents in which Sullivan gave unit members inaccurate information but was unable to provide specifics. (R. 74).

As of August 8, Richards testified that the Union still had not received any of the information requested by Sullivan on June 23. (R. 38). On August 23, Richards sent an email to Dr. Ikejiaku, asking for the requested information and to meet about the grievance before August 25. (R. 39-40, Joint Ex. 12). Ikejiaku responded on August 30, stating that he had just returned to the office and stating that the District would be willing to provide information on the first and third requests, but not in response to the others, describing them as “privileged work papers.” (Joint Ex. 12). No basis was provided to support a claim of privilege. Richards testified that the District was concerned that it would lose its subjectivity if notes concerning the hiring process could be turned over to the Union. (R. 42). The parties subsequently agreed to hold the grievance at Level 3 until the information request was resolved. (R. 43, Joint Ex. 12). Richards testified that the District has never made any other offer except to state that it would not produce the remaining requested information, including any effort to provide limited access in a way that maintains confidentiality. (R. 43-44).

On December 13, Richards emailed Ikejiaku to request the documents that the District indicated on August 30 that it was able to provide. (Joint Ex. 12). Ikejiaku stated that he would double-check to ensure that the material had been sent. (Joint Ex. 12, R. 44-45). Richards sent a follow-up email on January 9. (Joint Ex. 12). Ikejiaku responded on January 30, submitting responsive documents to the first and third of Sullivan’s information requests. The Union was provided with a job description for the School Bus Behind the Wheel Driver Trainer position, the PowerPoint presentation that the applicants were expected to present as part of the evaluation process, and summaries of the District’s evaluation of each of the trainer candidate’s performance in the evaluation and interview process. (R. 52-53, Joint Ex. 12). The summary pages contain an overall score that considers the tests and presentation and general notes taken during the presentation. (R. 53). They were prepared by Jamie Jackson. (R. 63). The District withheld the individual tests taken by each of the

applicants. (R. 53-54). Sullivan received a Presentation Score of 80%, a Written Test score of 96%, and an Interview Questions score of 80%, for an overall score of 85.33%. (Joint Ex. 12). The other three applicants all received higher scores than Sullivan in both the Presentation and Interview portions, but got equal or lower scores as compared to Sullivan on the Written Test portion. (Joint Ex. 12). The three other applicants received overall scores of 98.66%, 96.33%, and 98.66%. Sullivan's summary page indicated that he did not get the position because he was not able to present the material without putting his personal feelings in place of the subject of the presentation and that he argued slightly with an interviewer during a response to an interview question. (Joint Ex. 12).

At the hearing, Collins reviewed the scores of Sullivan compared to the other applicants hired to the position. (R. 55-60, Joint Ex. 8-11). Collins testified that the evidence showed that Sullivan was the least qualified of the applicants based on the scoring process. (R. 60). Collins testified that he did not know who determined the scores for the presentation portion of the process. (R. 63). He testified that multiple-choice tests were scored objectively, based on the percentage of questions answered correctly. (R. 63-67). While it was possible to see who the test-taker was and the total scores received by page by the test-taker in the copies of test materials submitted as exhibits at hearing, the questions and answers themselves were redacted. (R. 66, Joint Ex. 7-11). There also was a written question-and-answer portion graded by Jamie Jackson. (R. 67). For the interviews, Collins testified that he believed that notes were taken but that those notes were not provided to the Union. (R. 68).

II. Issues and Contentions

The Complaint alleges that the District violated Section 14(a)(5) and, derivatively, (1) of the Act when it failed or refused to furnish the Union it requested on June 20, 2023, and continued to fail or refuse to provide the information when the request was reiterated on August 8, 2023. The District denies that the complained-of conduct violates the Act.

III. Discussion

Section 14(a)(5) of the Act provides that educational employers are prohibited from refusing to bargain collectively in good faith with the exclusive representative of employees in an appropriate bargaining unit. 115 ILCS 5/14(a)(5) (2022). Part of an educational employer's duty to bargain in good faith is the requirement that it provide an employee organization with requested information, if the requested information is directly relevant to the Union's function as the exclusive bargaining agent and reasonably necessary for the performance of that function. Chicago School Reford Bd. Of Trustees v. IELRB, 315 Ill. App.

3d 522, 529 (1st Dist. 2000); Thornton Community College, 5 PERI 1003 (IELRB Opinion and Order, November 29, 1988). A union is not automatically entitled to all requested information. Highland Community College, 41 PERI 51 (IELRB Opinion and Order, September 18, 2024). However, the standard by which relevance is determined is akin to discovery, not trial. Alton Community School Dist. 11, 21 PERI 79 (IELRB Opinion and Order, March 23, 2005). Information about bargaining unit employees, especially where the requested information relates to the terms and conditions of employment, is deemed presumptively relevant, and the employer has the burden of rebutting that presumption. Highland Community College.

In its Answer to the Complaint and Notice of Hearing issued in this matter, the District raised two Affirmative Defenses. (ALJ Ex. 4). Its first Affirmative Defense claims that it provided the Union with all documents responsive to its records request that were reasonably necessary for the Union to fulfill its statutory duty and responsibility with respect to Sullivan's grievance and to answer the question of whether Section 7.8(F) of the CBA should have been invoked. Its second Affirmative Defense claimed that the District had a rational and compelling basis for not providing the remaining information to the Union because that information was privileged, confidential, and concerns a non-mandatory subject of bargaining. (ALJ Ex. 4).

A. The information submitted by the District on Sullivan's Interview Summary was inadequate for the Union to fulfill its statutory duties as bargaining representative.

In response to the Union's information request, the District provided unredacted copies of Interview Summaries that contained test scores, presentation scores, overall scores, and summaries of notes taken by the interviewer. Collins testified at hearing that he was only aware of how the written test scores were graded, and that the answer to those questions was objective. He testified further that Jackson was responsible for the remaining grades. Jackson did not testify at the hearing, and no evidence was submitted to demonstrate how she calculated the remaining scores. The District did not disclose interview notes even though Collins acknowledged that interview notes existed. In response to a subpoena issued for the purposes of the hearing, the District submitted redacted copies of the interview materials used and redacted copies of each applicant's interview file. The redacted copies were entered into evidence as exhibits. (Joint Ex. 7-11). Unredacted copies of these documents exist.

Neither the redacted nor unredacted copies were submitted to the Union pursuant to the document request at issue in the instant charge.

Under a discovery-type standard, the District's one-page Interview Summary is plainly inadequate. Supreme Court Rule 201 effectively permits the disclosure of both information admissible at trial and that which may lead to information admissible at trial. Monier v. Chamberlain, 35 Ill. 2d 351, 357 (1966). Where there is an information request filed during a grievance procedure, as is the case here, the relevant "trial" is the potential arbitration proceeding that Section 10(c) of the IELRA requires as part of the grievance procedure within a collective bargaining agreement. 115 ILCS 5/10(c). The Union is therefore entitled to information that would be admissible at arbitration or that may lead to information admissible at arbitration.

Here, the arbitration would be held pursuant to Sullivan's grievance, which alleges that the District improperly applied the "best ability" standard spelled out in Section 7.8(F) of the CBA, and that the evaluation and selection process was not performed in a fair manner. (Joint Ex. 2). Under the discovery-type standard articulated above, the Union would be entitled to any information relevant to the process by which it applied the "best ability" standard, and any information that might be available to demonstrate whether the evaluation and selection process was fair.

The District's Information Summaries are inadequate to serve this purpose. The Information Summaries provide us with two pieces of information to explain why Sullivan received reduced scores in the Interview and Presentation portions of the process: that he was unable to present the material without putting his personal feelings in the place of the material he was to present, and that he argued slightly with an interviewer during a response to an interview question. These general, conclusory statements provide little to no basis to decide whether Sullivan's ability to perform the job is, or is not, equal to the three trainers that were hired. Based on the summaries alone, it is impossible to know what statements Sullivan made during the presentation that caused Jackson to downgrade his Presentation score, nor do we know anything about the basis for or nature of the argument that caused Jackson to downgrade his interview score. This makes it impossible to independently determine Sullivan's suitability for the position compared with the other applicants. Any documents that exist that demonstrate the nature of Sullivan's answers and the reasons for any downgrade applied to his Presentation and Interview scores, as well as notes about the performance of the other candidates in those areas, could be evidence that speaks to the

fairness of the process and the extent to which his ability to perform the job was comparable to those hired to fill the role. The District's unredacted notes as they relate to Sullivan's performance in the Presentation and Interview portions of the process are therefore directly relevant to the Union's function as bargaining agent for the purposes of Sullivan's grievance, and reasonably necessary for the performance of this function.

B. The District has not proven that a confidentiality interest exists in the Presentation and Interview portions of the hiring process, and although a confidentiality interest exists as to the Written portion, it must provide the Union with alternative documentation that would allow it to adequately pursue its grievance.

The District argues that it has no duty to turn over the requested materials because they are confidential and concern a non-mandatory subject of bargaining. I find at the outset that the assignment of summer work concerns the terms and conditions of employment and is therefore a mandatory subject of bargaining. *See, e.g., Fenton Community High School District 100*, 5 PERI 1004 (IELRB Opinion and Order, April 16, 1990) (subcontracting summer teaching work was a mandatory subject of bargaining where the subcontracting was a deviation from status quo). To support the District's claim of confidentiality, it has the burden of proof to demonstrate that the release of the claimed confidential materials will have a negative effect. *County of Cook v. ILRB, Local Panel*, 266 Ill. App. 3d 52, 61 (1st Dist. 1994).

In *Detroit Edison Co. v. NLRB*, an employer issued aptitude tests for the job classification of Instrument Man B, who was responsible for installing and maintaining the powerplant instrumentation. 440 U.S. 301, 305 (1979). The tests were given with the express commitment that test scores would remain confidential and were kept in the offices of the company's in-house psychologists who had an ethical duty to not disclose test information to unauthorized persons. The union in that case filed a grievance alleging a violation of a collective bargaining agreement on behalf of senior employees who were bypassed because of the test. The employer offered copies of test-validation studies performed by its psychologists, and a report by an outside consultant on the testing program, but did not disclose the test questions, the applicants' responses, or their total scores. *Detroit Edison* at 307-08. At hearing, the employer offered to submit the tests to an intermediary of the union's choosing, but the union declined. *Id.* at 309. An Administrative Law Judge for the NLRB ordered that the tests and results be turned over to the union but accepted the employer's suggestion that

they be turned over to an expert intermediary instead, both to ensure confidentiality and because only a professional could properly analyze the test. *Id.* at 310. The NLRB then ordered the test material to be submitted directly to the Union, with the restriction that the Union not disclose the test materials to its membership or to any other third party. *Id.* at 311. The NLRB's decision was upheld by the Sixth Circuit.

The Supreme Court overturned the Sixth Circuit. *Id.* at 320. It reasoned that any impairment that might arise from the Union being denied direct access to the test materials is overruled by the employer's clear interest in confidentiality. *Id.* at 317, 319. Accordingly, the NLRB's order that the employer unilaterally turn over all test materials to the Union was an abuse of discretion, and it remanded to the Sixth Circuit for further proceedings. *Id.* at 319-20. In so doing, it repeatedly relied upon the employer's assertions that limited and conditional disclosures would be possible, and that the employer was not permitted to use the withholding of test scores to frustrate the Union in its ability to represent its membership. *Id.* at 318-19.

The District cites Policemen's Benevolent Labor Committee and City of Bloomington, 19 PERI 11. (ILRB State Panel, January 16, 2003). In that case, an employer refused to disclose the questions and answers to an exam that would be used to promote employees to the position of Lieutenants for a city's police force. The ILRB determined that the city in that case had no obligation to disclose test questions and answers for the purposes of bargaining over unit members' terms and conditions of employment because the CBA contained no agreement regarding the drafting and formulation of questions, and because of the city's rational and compelling interest in maintaining the confidentiality of the exam to protect the integrity of the examination process.

This case differs from Detroit Edison and City of Bloomington in several key respects. First, in both of those cases, the jobs for which employees were being tested were permanent promotions, whereas here, the jobs are for short-term, summer positions for which the three employees who were hired performed the same job for at least one previous summer. This matters because the same employees take the same test every year, which diminishes the District's interest in confidentiality. Second, where the tests contemplated in those two cases appear to be wholly objective, the objective written and multiple-choice portions of this process only comprise one-third of the overall grade. This limits the extent to which the District can claim that disclosure would compromise its hiring processes because it would maintain discretion over the subjective portions of its process. Finally, the District did not

make it clear at the time that the test materials were confidential until the Union submitted an information request and made no offer of an alternative arrangement that would ensure that the Union was still able to obtain what it needed to process its grievance.

I find that the District's interest in confidentiality to ensure the integrity of its hiring process applies to the objective portion of the exam, namely, the written and multiple-choice portions, but not to the presentation or interview portions. These subjective portions are necessarily individualized to each applicant, and grades are assigned based on an assessment of the skill and qualifications of the individual, as reflected by their ability to present and to respond to interview questions. The District's interest in maintaining the integrity of its hiring process is not damaged because its ability to assess the qualifications of its applicants through these subjective processes has not changed. I therefore find that there is no confidentiality interest in the notes and other records used to document and determine the scores given in the Presentation and Interview portions of the hiring process.

On the other hand, it is easier to see how disclosing test materials scored using objective criteria might compromise the process because it would give applicants access to objectively correct answers ahead of time. Nevertheless, the District must still provide information sufficient to allow the Union to independently verify the fairness of its hiring processes even as it relates to these objective examinations. I find that it must therefore offer something beyond a summary of overall test results.

At hearing, exhibits were entered into evidence that redacted the questions and answers in the objective examinations but demonstrated which of the questions, as identified by question number, the applicants answered incorrectly. (Joint Ex. 8-11). Documents like these are one way the balance could be struck to ensure the ongoing usefulness of the objective portion of the examination while giving the Union the information it needs to adequately process its grievance. The parties may be able to find another method that adequately balances the interests.

IV. Conclusions of Law

Based on the foregoing, I find that the District violated Section 14(a)(5) and, derivatively, (1) of the Act by failing or refusing to provide its written notes and other materials related to the subjective portions of the hiring process, and for failing or refusing to arrange for the transmission of information related to the objective portion of the process that gives the Union the information needed to process its grievance while protecting the District's interest in confidentiality.

V. Recommended Order

I recommend that Peoria Public School District 150, and its officers and agents be ordered to:

1. Cease and Desist from:
 - a. Failing or refusing to provide the Union with requested information that is directly relevant to the Union's function as the exclusive bargaining agent and reasonably necessary for the performance of that function.
 - b. In any like or related manner interfering with, restraining, or coercing employees in the exercise of rights guaranteed by the Act.
2. Immediately take the following affirmative action to effectuate the policies of the Act:
 - a. Submit all interview notes and any other materials used to document and determine scores for the Interview and Presentation elements of the hiring process for the position of summer driver trainer.
 - b. Submit information to Union regarding the Written and Multiple-Choice portions of the hiring process for the position of summer driver trainer in a manner that ensures that the District's interest in confidentiality is maintained while giving the Union the information it needs to fulfill its obligations as exclusive bargaining agent.
 - c. Post on bulletin boards or other places reserved for notices to bargaining unit employees copies of the Notice to Employees attached to this Recommended Decision and Order. Copies of this notice shall be provided by the Executive Director of the Illinois Educational Labor Relations Board and shall be signed by Respondent's authorized representative, posted and maintained for sixty (60) calendar days during which a majority of bargaining unit employees are working. Reasonable steps shall be taken by the District to ensure that the notices are not altered, defaced, or covered by any other materials.
 - d. Notify the Executive Director in writing within thirty-five (35) calendar days after receipt of this Recommended Decision and Order of the steps taken to comply with it.

VI. Right to File Exceptions

Pursuant to Section 1120.50(a)(1) of the Board's Rules and Regulations, Ill. Admin. Code tit. 80 §1120.51(a)(1) (2017), the parties may file written exceptions to this

Recommended Decision and Order no later than 21 days after receipt of this decision. Exceptions and briefs must be filed with the Board's General Counsel. If no exceptions have been filed within the 21-day period, the parties will be deemed to have waived their exceptions. Under Section 1110.20(e) of the Board's Rules, parties must send a copy of any exceptions they choose to file to the other parties and must provide the Board with a certificate of service. A certificate of service is "a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service."

Ill. Admin. Code tit. 80 §1100.20(e). If a party fails to send a copy of its exceptions to the other parties or fails to include a certificate of service, that party's appeal rights with the Board will end.

Dated: March 11, 2026
Issued: Chicago, Illinois

/s/ Nick Gutierrez
Nick Gutierrez
Administrative Law Judge

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