

STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

Darwin Duncan,	)	
	)	
Charging Party	)	
	)	Case Nos. 2025-CA-0062-C
and	)	2025-CA-0070-C
	)	2025-CA-0076-C
Proviso Township High School	)	
District 209,	)	
	)	
Respondent	)	

OPINION AND ORDER

I. Statement of the Case

On March 25, April 28, and June 11, 2025, Darwin Duncan (Duncan or Charging Party) filed charges with the Illinois Educational Labor Relations Board (Board or IELRB) in the above-captioned matter alleging that Proviso Township High School District 209 (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) on December 31, 2025, dismissing the charges.

On January 2, 2026, the following email exchange occurred between Duncan and the Board's General Counsel.¹ Duncan requested a seven-day extension of time to file his rebuttal to the EDRDO. The General Counsel asked whether Duncan meant exceptions and what the basis was for his request. She inquired whether he had contacted Respondent's attorney to ascertain whether there was any objection to the request. She instructed him to contact Respondent's attorney, if he had not already done so. Duncan responded with the basis for his request, but did not state whether he had contacted Respondent's attorney. In reply, the General Counsel asked again if he had contacted Respondent's attorney regarding his request to see if

¹ All events occur in 2026, unless otherwise indicated.

there was any objection and noted that if not, he must do so. She explained that he could do so by email and send her a courtesy copy. Duncan never replied, nor did he courtesy copy the General Counsel on any email to Respondent's attorney regarding his request for extension.

Duncan filed an unfair labor practice charge against his union on January 14. Therein, he asked for his charge to be directed to the Board's Executive Director and to its General Counsel to reexamine his charges in these matters. Neither the District nor its attorney was courtesy copied on the correspondence. A Board agent sent Duncan an email on January 20 noting his request that the Board reexamine the instant charges. The Board agent asked whether Duncan was filing exceptions to the EDRDO in this case. If so, did he want the email accompanying his charge against the Union to serve as his exceptions to the EDRDO in this case. On January 26, Duncan filed his exceptions to the EDRDO dismissing his charges against the District. The email did not include a certificate of service. Neither the District nor its attorney were courtesy copied. The District did not file a response to Duncan's 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 herein except as necessary to assist the reader.

III. Discussion

The EDRDO was served on Duncan via email on December 31, 2025. Exceptions to an EDRDO must be filed no later than 14 days after service of the EDRDO. 80 Ill. Adm. Code 1120.30(c). Duncan's exceptions needed to be filed by 5:00 p.m. on January 14 in order to be timely. Although he requested an extension of time, until January 21, his request was never granted. The Appellate Court has found that a charging party waived its right to contest a recommended decision and order by failing to file timely exceptions to that recommended decision and order. *Pierce v. IELRB*, 334 Ill. App. 3d 25, 777 N.E.2d 570 (1st Dist. 2002); *Board*

of *Education of the City of Chicago v. IELRB*, 289 Ill. App. 3d 1019, 682 N.E.2d 398 (1st Dist. 1997). In accordance with the Appellate Court, the Board routinely strikes untimely exceptions. *Rochester Community Sch. Dist. No. 3A*, 35 PERI 7, Case No. 2017-CA-0059-C (IELRB Opinion and Order, June 19, 2018); *Proviso Township High Sch. Dist. #209*, 34 PERI 64, Case No. 2017-CA-0065-C (IELRB Opinion and Order, September 15, 2017); *Peoria School District 150*, 23 PERI 46, Case Nos. 2006-CA-0006-S, 2006-CA-0008-S, 2006-CA-0032-S (IELRB Opinion and Order, April 19, 2007). Duncan's exceptions, filed twelve days after their due date, are untimely. Even if the General Counsel had granted Duncan's requested extension, until January 21, his exceptions would still be untimely because they were filed after that date. Instead of filing his exceptions on January 14, he filed an unfair labor practice charge against his union. Duncan did not reply when the Board agent asked whether his January 14 filing was his exceptions. Accordingly, we strike Duncan's exceptions as untimely filed.

If Duncan's exceptions had been timely, we would strike them because he failed to attach a certificate of service. Section 1100.20(e) of the Board's Rules and Regulations (Rules), 80 Ill. Admin. Code 1100-1135, requires documents filed with the Board to be accompanied by 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." Section 1100.20(e). Per Section 1100.20(f), failure of a party to serve a document or failure to attach a certificate of service may be grounds to strike the document if the failure results in prejudice to another party or demonstrates disregard of the Board's processes. Section 1120.30(c) of the Rules states that when a charging party files exceptions to an EDRDO, "copies of all exceptions and supporting briefs shall be served upon all other parties and a certificate of service shall be attached." The Board has consistently stricken exceptions where a party has failed to provide a certificate of service or otherwise demonstrate that the exceptions have been served on the other parties. *Int'l Union of Operating Engineers, Local 143-143-B*, 21 PERI 23, Case No. 2004-CB-0013-C (IELRB Opinion and Order, February 17, 2005). The Appellate Court approved this practice

in *Jones v. IELRB*, 272 Ill. App. 3d 612, 650 N.E.2d 1092 (1st Dist. 1995). In *Cahokia Federation of Teachers*, 19 PERI 1098, Case No. 2002-CB-0001-S (IELRB Opinion and Order, February 27, 2003), the Board found that the charging party's cc at the end of their exceptions listing names and addresses of respondent's representatives met the certificate of service requirement because it had all the characteristics listed in Section 1100.20(e). Likewise, exceptions filed by an email to the Board's general email address and simultaneously cc'd to the other party's representative could meet the certificate of service requirement. See *Ortega/Des Plaines Educational Personnel Association, IEA-NEA*, 41 PERI 13, Case No. 2022-CB-0007-C (IELRB Opinion and Order, June 18, 2024).

In this case, Duncan filed his exceptions via email and did not attach a certificate of service or otherwise demonstrate that he served his exceptions upon the District. Duncan was informed of this requirement in the "Right to Exceptions" section of the EDRDO, instructing him that:

[E]xceptions 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." [emphasis in original]

The District did not file a response to Duncan's exceptions. That could be because he did not serve them on the District, prejudicing them because he denied them an adequate opportunity to respond. Or it could be because Duncan served his exceptions on the District, but it elected not to respond. If Duncan served his exceptions and the District chose not to respond, his failure to attach a certificate of service would demonstrate a disregard for the Board's processes that were clearly specified to him in the EDRDO. Therefore, even if Duncan's exceptions were timely, they would still be stricken.

Even if we did not strike Duncan's exceptions, nothing therein warrants overturning the dismissal of his charges. All three of Duncan's charges allege the District violated Sections 14(a)(1), (2), (3), (4) and (5) of the Act.

Section 14(a)(1) of the Act prohibits educational employers and their agents from interfering with, restraining or coercing educational employees in the exercise of their rights under the Act. Section 14(a)(3) of the Act prohibits educational employers and 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." Section 14(a)(3) applies to discrimination based on union activity, and Section 14(a)(1) applies to adverse action because of other protected concerted activity. *SPEED District 802 v. Warning*, 242 Ill.2d 92, 950 N.E.2d 1069 (2011); *Bloom Township High School District 206 v. IELRB*, 312 Ill. App. 3d 943, 728 N.E.2d 612 (1st Dist. 2000). When, as in the instant case, an alleged violation of Section 14(a)(1) is based on the same conduct as an alleged violation of Section 14(a)(3), the alleged Section 14(a)(1) violation is a derivative violation, and the applicable test is the one used under Section 14(a)(3). *SPEED*; *Bloom Township*. In order for the Board to issue a complaint for hearing on allegations of a violation of Section 14(a)(3), the charging party must at least be able to make some showing that the employee engaged in union activity, that the employer was aware of that activity, and that the employer took adverse action against the employee for engaging in that activity. *SPEED*, 242 Ill.2d 92, 950 N.E.2d 1069; *Board of Education, City of Peoria School District No. 150 v. IELRB*, 318 Ill. App. 3d 144, 741 N.E.2d 690 (4th Dist. 2000); *Bloom Township*, 312 Ill. App. 3d 943, 728 N.E.2d 612.

Duncan argued in his charges that the District took adverse action against him when it required him to perform certain duties, removed him from service, denied him access to school grounds, issued him a one-day suspension, placed him on paid administrative leave, and terminated his employment. The Executive Director dismissed Duncan's 14(a)(1) and (3) allegations for lack of evidence that he engaged in union or concerted activity. However, page 2

of the EDRDO states that the parties do not dispute that Duncan frequently filed grievances to challenge certain assignments. Grievance filing is protected activity pursuant to Section 3 of the Act because it requires the invocation of a right arising out of a collective bargaining agreement. *Chicago Reform Board of Trustees*, 16 PERI 1023 (IELRB Opinion and Order, January 28, 2000). By the undisputed nature of Duncan's grievance filings, the District is aware of his protected activity. Yet there is no evidence in the investigative record, nor does Duncan raise any arguments in his exceptions that the complained-of acts, the alleged adverse actions, were committed against him because of, or in retaliation for, his grievance filing. See *City of Burbank v. Illinois State Labor Relations Board et al.*, 128 Ill. 2d 335, 538 N.E.2d 1146 (1989). Consequently, Duncan cannot make any showing as to the causation element, and thus, the charges fail to raise an issue of law or fact sufficient to warrant a hearing alleging a violation of Sections 14(a)(1) or (3) of the Act.

Section 14(a)(2) of the Act prohibits educational employers from "[d]ominating or interfering with the formation, existence or administration of any employee organization." However, Duncan falls short on the third prong of the test, that the Employer took adverse action against him because of that activity. The Executive Director dismissed this portion of the charges because Duncan presented no evidence that the District engaged in the type of interference prohibited under Section 14(a)(2). There is no evidence in the investigative record, nor does Duncan raise any arguments in his exceptions that lead us to conclude otherwise.

Section 14(a)(4) of the Act prohibits employers from discharging or discriminating against an employee for signing or filing an affidavit, authorization card, petition, or complaint or giving any information or testimony under the Act. Duncan's 14(a)(4) claim also fails for the lack of a causal connection. To obtain a complaint for hearing on a 14(a)(4) claim, Duncan must make some showing he was involved in proceedings before this Board, Respondent knew of that activity, and Respondent took adverse action against him because of his involvement in that activity. *Prairie State College Federation of Teachers, Local 3816, IFT-AFT/Prairie State College*, 3

PERI ¶ 1116, 1987 WL 1435216 (IL ELRB 1987); *Green and Warns and City of Chicago*, 3 PERI ¶ 3011 (IL ELRB 1987). There is no dispute Duncan filed his first unfair labor practice charge against the District on March 25, and that others followed on April 28 and June 11. Nor is there any dispute the District knew of Duncan's activity in this regard, as it was served with the charges he filed. The adverse action element is satisfied by the District's placement of Duncan on paid administrative leave on or about April 23 and termination of his employment on or about June 10. The only remaining question is whether these adverse employment actions were in response to his involvement in proceedings before the Board. That question is answered in the negative, as there is no evidence in the record of a causal link between Duncan's filing a charge and participating in the investigation thereof before this agency and Respondent's actions to place him on administrative leave and terminate his employment. Thus, the Executive Director correctly found that Duncan's claim in this regard failed to raise an issue of law or fact sufficient to warrant a hearing.

Section 14(a)(5) of the Act prohibits educational employers, their agents, and representatives from refusing to bargain collectively in good faith with an employee representative that is the exclusive representative of employees in an appropriate unit. The IELRB has long held that an individual employee may not bring an action regarding the breach of the duty to bargain in good faith. *Thornton Community College District 510*, 4 PERI 1010, 1987 WL 1435331 (IELRB 1987). Sections 14(a)(5) and 14(b)(3) of the Act concern 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 be brought only by the particular employer and exclusive representative, not by an individual employee. *Id.* Therefore, the Executive Director correctly found that as an individual employee, Duncan does not have standing to bring a 14(a)(5) violation and the charges fail to raise an issue for hearing on this point as well.

IV. Order

We strike Duncan's exceptions because they were untimely filed. If Duncan's exceptions had been timely, we would strike them because he failed to attach a certificate of service. If Duncan's exceptions had been timely and accompanied by a certificate of service, we would have considered them and found that nothing therein warrants overturning the dismissal of his charges. For the reasons discussed above, IT IS HEREBY ORDERED that the Executive Director's Recommended Decision and Order is affirmed.

V. Right to Appeal

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

Decided: **March 18, 2026**

Issued: **March 19, 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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And	)	Case No. 2025-CA-0062-C
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	)	Case No. 2025-CA-0076-C
Proviso Township High School	)	
District 209,	)	
	)	
Respondent,	)	

EXECUTIVE DIRECTOR’S RECOMMENDED DECISION AND ORDER

I. THE UNFAIR LABOR PRACTICE CHARGES

On March 25, 2025; April 28, 2025; and June 11, 2025, Darwin Duncan, filed three unfair labor practice charges, namely Case Nos. 2025-CA-0062-C, 2025-CA-0070-C, and 2025-CA-0076-C, with the Illinois Educational Labor Relations Board (IELRB or Board) in the above-captioned matter. Duncan alleged that Respondent, Proviso Township High School District 209, violated Section 14(a) of the Illinois Educational Labor Relations Act (Act), 115 ILCS 5/1, et seq. Following the docketing of the charges, the Executive Director determined that the underlying unfair labor practice charges shared a common nucleus of operative facts and ordered consolidation of the cases in the interests of efficiency. After an investigation conducted in accordance with Section 15 of the Act, the Executive Director issues these dismissals for the reasons set forth below.

II. INVESTIGATORY FACTS

A. Jurisdictional Facts

Proviso Township High School District 209 (District or Respondent) is an educational employer within the meaning of Section 2(a) of the Act and subject to the jurisdiction of the Board. Darwin Duncan (Duncan) was an educational employee within the meaning of Section 2(b) of the Act employed by the District in the title or classification of Fireman.¹ Service

¹ The term “Fireman” is in reference to previous generations of employees that were tasked with maintaining the boiler system of the school. The position of fireman is a part of Proviso’s maintenance and custodial employees,

Employees International Union Local 73 (Union), is a labor organization within the meaning of Section 2(c) of the Act, and is the exclusive representative within the meaning of Section 2(d) of the Act, of a bargaining unit comprised of certain of the District's employees, including those in the title or classification of Fireman. At all times material, Duncan was a member of the Union's bargaining unit. At all times material, SEIU and the Union were parties to a collective bargaining agreement (CBA) which provided for a grievance procedure culminating in arbitration, for the bargaining unit to which Duncan belonged.

B. Facts Relevant to the Unfair Labor Practice Charge

The underlying facts of this case concerns a single bargaining unit employee, Darwin Duncan. On March 19, 2025, the District placed Duncan on administrative leave after an incident in which he allegedly swung his hand at his supervisor, who had confronted him about his refusal to complete assigned work tasks. While out on leave, the District conducted a separate investigation, aside from the physical altercation, into Duncan's alleged failure to comply with work directives. Previously the District informed Duncan of his obligations to complete and submit weekly work completion reports to supervisors as instructed; however, Duncan failed to do so. As a result of the alleged insubordination, the District issued the above referenced discipline and six days later Duncan filed unfair labor practice Charge No. 2025-CA-0062-C with the Board. The alleged insubordination is tied to Duncan's dispute with the assignment of work within his classification. The parties do not dispute that Duncan frequently refuses to perform assigned tasks when he believes they fall outside the scope of his duties, often filing grievances to challenge such assignments through the established process.

In addition to the issue of the March 19, 2025, discipline, Duncan raised several issues in the charge regarding his compensation and benefits at the District that included: (1) missing IMRF pension contributions for 2024 and 2025; (2) \$28,000 in missing stipend money owed to him to

which includes day custodians, night custodians, fireman, lead fireman, maintenance I, and maintenance II employees.

obtain certifications for work; (3) \$30,000 in missing overtime money that was paid to another employee instead of Duncan; and (4) lowering his contractual 2025 wage rate to his 2020 wage rate.

Following the filing of Charge No. 2025-CA-0062-C, Duncan returned to work on his regular schedule while the District continued to investigate the alleged aggression directed at his supervisor on March 19. While working on April 23, 2025, Duncan's supervisor asked him to complete cleaning tasks as a part of his job duties. Duncan allegedly refused to complete the cleaning tasks and, when his supervisor asked again, continued to refuse because the tasks did not fall within his job duties. Given the alleged insubordination, the District placed Duncan on paid administrative leave and continued their investigation into his pattern of refusal to complete assigned work. Five days after being placed on leave, Duncan filed Charge No. 2025-CA-0070-C, in which he alleged that he is "being coerced to perform "essential duties" of the custodian/maintenance build lead." Duncan went on to reference the one-day suspension connected to the March 19 and asked the Board to remove all discipline from his personnel file.

On May 9, 2025, the District sent a letter to Duncan informing him that the District would be recommending the termination of his employment due to his alleged insubordination and implied threats to harm another employee. On June 10, 2025, a majority of the District's Board voted to terminate Duncan's employment due to his alleged ongoing performance issues and violation of the District's policies. On June 11, 2025, Duncan filed Charge No. 2025-CA-0076-C with the Board. This charge is centered on Duncan's termination from the District on June 10, 2025, in which Duncan denies having any work performance issues, asserting instead that his termination was based on a false police report concerning an alleged altercation with his supervisor on March 19, 2025.

III. THE PARTIES' POSITIONS

Duncan claims that the District violated Sections 14(a)(1), (2), (3), (4) and (5) of the Act. The District denies that the complained-of conduct violates the Act.

IV. DISCUSSION AND ANALYSIS

A. Charge No. 2025-CA-0062-C

i. Alleged 14(a)(1) Violation

Under Section 3 of the Act, educational employees are guaranteed the right of self-organization, the right to form, join or assist any labor organization, and the right to bargain collectively through representatives of their own choosing on questions of wages, hours, and other conditions of employment. Section 14(a)(1) of the Act makes it an unfair labor practice for an employer or its agents to interfere with, restrain or coerce educational employees in the exercise of their Section 3 rights.

In order for the Board to issue a complaint for hearing on allegations of a violation of Section 14(a)(1), the charging party, in this case, Duncan, must at least be able to make some showing he engaged in protected activity, Respondent knew of that activity, and Respondent took adverse action against him as a result of his involvement in that activity. *Neponset Community Unit School District* No. 307, 13 PERI ¶ 1089, 1997 WL 34820232 (IELRB 1997).

Here, there is no allegation or evidence that Duncan engaged in protected or concerted activity, and correspondingly, that the District had any knowledge of any protected activity. The adverse action element is met by the District's issuance of a one-day unpaid suspension on March 19, 2025, for disregarding directions and insubordination. Duncan contends that the District disciplined him in retaliation for exercising his contractual rights to challenge alleged retaliation, harassment, a hostile work environment, denial of job trainings, and unequal overtime pay. However, the discipline underlying this charge stemmed from his failure to submit required weekly reports documenting the completion of work. To the extent the District improperly disciplined Duncan, it was not because of, or in retaliation for, the exercise of rights protected under the Act. See *City of Burbank v. Illinois State Labor Relations Board et al.*, 128 Ill. 2d 335 (1989). As Duncan cannot make a showing as to all the necessary elements of a violation, his 14(a)(1) claim fails to raise an issue of law or fact sufficient to warrant a hearing.

ii. Alleged 14(a)(3) Violation

Under Section 14(a)(3), employers may not discriminate with regard to hire, tenure or any term or condition of employment in order to discourage or encourage membership in a union. Where, as here, an alleged violation of Section 14(a)(1) is based on the same conduct as an alleged violation of Section 14(a)(3), the Section 14(a)(1) violation is essentially a derivative violation. *Carmi Community Unit School District 5, 6 PERI 1020, Case No. 88-CA-0024-S* (IELRB Opinion and Order, January 11, 1990). Where an employer's conduct is alleged to violate both sections, the applicable test is the one used in Section 14(a)(3) cases requiring proof of proper motivation of the employer's part. *Bloom Township High School Dist. 206 v. IELRB*, 312 Ill. App. 3d 943, 728 N.E.2d 612 (1st Dist. 2000). In order to establish a prima facie violation under that test, Duncan must prove that: 1) he engaged in union activity, 2) the Employer was aware of that activity, and 3) the Employer took adverse action against her for engaging in that activity. *University of Illinois at Urbana (Rochkes)*, 17 PERI 1054, Case Nos. 00-CS-0006-S, 01-CA-0007-S (IERLB Opinion and Order, June 19, 2001).

Duncan's allegations that the District committed a Section 14(a)(3) violation against him fail for the same reasons as his Section 14(a)(1) violation allegations as discussed above, in that the complained of action taken against him by the District presents no evidentiary nexus to concerted or protected activity. See *General Service Employees Union, Local 73 v. Illinois Educational Labor Relations Board*, 285 Ill. App. 3d 507 (1996). As Duncan cannot make a showing as to all the necessary elements of a violation, his 14(a)(3) claim fails to raise an issue of law or fact sufficient to warrant a hearing.

iii. Alleged 14(a)(2) Violation

Herein, Duncan also asserts that the District violated Section 14(a)(2) of the Act; however, he does not provide any facts to support the alleged violation of the Act. Section 14(a)(2) of the Act prohibits educational employers from "[d]ominating or interfering with the formation, existence

or administration of an employee organization,” and was based on Section 8(a)(2) of the National Labor Relations Act (NLRA), 29 U.S.C. §§151 et seq.² A review of the charge and the documents provided by Duncan present no supporting evidence that the District engaged in the type of interference prohibited under Section 14(a)(2).

iv. Alleged 14(a)(4) Violation

Duncan’s 14(a)(4) claim, as with those set forth above, fails because he is unable to establish a prima facie case of a violation. In order to establish a prima facie violation of Section 14(a)(4), he must prove by a preponderance of the evidence, he had involvement in proceedings before this Board, the District knew of that activity, and the District took adverse action against him because of his involvement in that activity. *Prairie State College Federation of Teachers. Local 3816, IFT, AFT/Prairie State College*, 3 PERI ¶1116, 1987 WL 1435216 (IL ELRB 1987); *Green and Warns and City of Chicago*, 3 PERI ¶3011, 1987 WL 1435282 (IL ELRB 1987). Here, there is no dispute that Duncan filed a charge with the Board on March 25, 2025, or that the District knew of said charge since it was served on the District. The element of adverse action is not satisfied, as the record contains no credible evidence that the District acted against Duncan on account of his participation in proceedings before this Board. Absent such proof, Duncan has failed to establish a prima facie case, and his claim under Section 14(a)(4) cannot be sustained.

v. Alleged 14(a)(5) Violation

Lastly, Duncan asserts that the District violated Section 14(a)(5) of the Act. Section 14(a)(5) prohibits educational employers, their agents and representatives from refusing to bargain collectively in good faith with an employee representative that is the exclusive representative of employees in an appropriate unit. The IELRB has long held that an individual employee may not

² In *Illinois Nurses Ass’n/University of Illinois*, 5 PERI ¶1052, 1989 WL 1700691 (IELRB 1989), the Board noted that the purpose of Section 8(a)(2) of the NLRA was “to eradicate company unionism, a practice whereby employers would establish and control in-house labor organizations in order to prevent organization by *bona fide* unions,” and that the term “interference” as used in that subsection, referred not to interference with employees’ rights to bargain collectively, such as a refusal to bargain would, but rather, to something akin to the employer recognizing a minority union, the employer entering into a contract with a minority union, the employer giving preferential treatment to one of two or more competing unions, or the employer establishing or controlling the labor organization through key personnel or financial support. The Board concluded that Section 14(a)(2) should be interpreted similarly. *Id.*

bring an action regarding the breach of the duty to bargain in good faith. *Thornton Community College District 510*, 4 PERI 1010, 1987 WL 1435331 (IELRB 1987). Section 14(a)(5) and 14(b)(3) concern 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. *Id.* Therefore, as an individual employee Duncan does not have standing to bring a 14(a)(5) violation and the charge fails to raise an issue of law or fact sufficient to support the issuance of a complaint.

vi. Jurisdiction

In this charge, Duncan alleges that the District wrongfully reduced his pay scale, denied him overtime assignments, failed to reimburse him for certification expenses, and improperly withheld pension contributions to IMRF. However, none of these allegations are connected to any claim that he engaged in protected or concerted activity protected by the Act. Whether the District has violated a code or statute other than the IELRA is beyond the scope of the IELRB's authority to assess. *General George S. Patton School District 133*, 10 PERI 1118, 1994 WL 16839705 (IELRB 1994). Accordingly, Duncan's allegations that the District owes him financial reimbursement for work and/or benefits falls outside the scope of the Act and will not be addressed here.

B. Charge No. 2025-CA-0070-C

i. Alleged 14(a)(1) Violation

Duncan asserts that the District engaged in retaliation and coercion through a series of actions, including requiring him to perform essential custodial and maintenance duties, imposing a one-day suspension, removing him from service, and denying him access to school grounds. An alleged violation of Section 14(a)(1) is based on the same conduct as an alleged violation of Section 14(a)(3), the Section 14(a)(1) violation is essentially a derivative violation. *Carmi*

Community Unit School District 5, 6 PERI 1020, Case No. 88-CA-0024-S (IELRB Opinion and Order, January 11, 1990). Where an employer's conduct is alleged to violate both sections, the applicable test is the one used in Section 14(a)(3) cases requiring proof of proper motivation of the employer's part. *Bloom Township High School Dist 206 v. IELRB*, 312 Ill. App. 3d 943, (1st Dist. 2000). In order to establish a prima facie violation under that test, Duncan must prove that: 1) He engaged in union activity, 2) the Employer was aware of that activity, and 3) the Employer took adverse action against him for engaging in that activity. *University of Illinois at Urbana (Rochkes)*, 17 PERI 1054, Case Nos. 00-CB-0006-S, 01-CA-0007-S (IERLB Opinion and Order, June 19, 2001).

Here, there is no evidence that Duncan engaged in any union or concerted activity. Instead, Duncan's dissatisfaction centers on his one-day suspension and placement on paid administrative leave following his failure to follow work directives. Personal grievances or personal piques do not establish activity protected by Section 3(a) of the Act. *Bd. of Educ. of Schaumburg Cmty. Consol. Sch. Dist. 54 v. Illinois Educ. Lab. Rels. Bd.*, 247 Ill. App. 3d 439, 454 (1st Dist. 1993). Moreover, there is no evidence in the Record that Duncan engaged in any union activity or is claiming to have other than listing Section 14(a)(1) on his charge. Therefore, Duncan charge fails to establish a prima facie violation of Section 14(a)(1).

ii. Alleged 14(a)(3) Violation

As stated for the reasons above, since the evidence fails to establish an unrebutted prima facie case that the Employer violated Section 14(a)(1) of the Act, the allegation of a violation of Section 14(a)(3) is dismissed for the same reasons.

iii. Alleged 14(a)(2) Violation

Here, Duncan alleges that the District violated Section 14(a)(2) of the Act. Section 14(a)(2) of the Act prohibits an educational employer from "[d]ominating or interfering with the formation, existence or administration of any employee organization." Section 14(a)(2) concerns interference with a union's internal administration or processes. *South Suburban College*, 11

PERI 1077, Case No. 92-CA-0073-C (IELRB Opinion and Order, September 1, 1995); *University of Illinois (Hospitals and Clinics)*, 5 PERI 1052, Case No. 89-CA-0014-C (IELRB Opinion and Order, February 23, 1989). An employer dominates an employee organization if the employer controls the employee organization to such an extent that the employee organization is a creature of the employer and does not act independently. *William Rainey Harper College*, 13 PERI 1072, Case Nos. 96-RC-0022-C, 97-CA-0001-C (IELRB Opinion and Order, May 20, 1997). The charge and documents Duncan provided are completely devoid of any facts that would suggest the District interfering or dominating the Union. Accordingly, the Section 14(a)(2) charge is dismissed.

iv. Alleged 14(a)(4) Violation

Section 14(a)(4) of the Act prohibits an educational employer from “Discharging or otherwise discriminating against an employee because he or she has signed or filed an affidavit, authorization card, petition or complaint or given any information or testimony under this Act.” 115 ILCS 5/14(a)(4). In order to establish a prima facie case of discrimination under Section 14(a)(4) of the Act, a charging party must have at least some evidence on each of the following three elements: (1) that employee(s) utilized or participated in the IELRB processes; (2) that the employer was aware of that activity; and (3) that the employer took adverse action against the employee(s) because of that activity. *Prairie State College*, 3 PERI 1116, Case No. 86-CA-0054-C (IELRB Opinion and Order, October 29, 1987).

At the time of this charge, Duncan had already filed Charge No. 2025-CA-0062-C with the IELRB. However, he presented no evidence to show that the District took any adverse action against him because of his prior charge against the Union. Here, the District was aware that Duncan had filed a previous charge, but there is no nexus between their knowledge of the charge and motivation to take adverse action against Duncan because he filed this charge. Therefore, the evidence fails to establish a prima facie case, and this claim is hereby dismissed.

v. Alleged 14(a)(5) Violation

Duncan's charge against the District further alleges that the District violated Section 14(a)(5) of the Act when they placed him on paid administrative leave and forced him to perform work allegedly not related to his job duties. Section 14(a)(5) 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 discussing of grievances with the exclusive representative ...". 115 ILCS 5/14.

Duncan, in his individual capacity, has no standing to raise a charge of violation of Section 14(a)(5), which concerns an educational employer's duty to bargain in good faith. The rights protected by Section 14(a)(5) are those of the exclusive representative, and therefore only the exclusive representative may raise a charge of violation of Section 14(a)(5). *Thornton Community College District No. 510*, 4 PERI 1010, Case Nos. 87-CA-0017-C, 87-CA-0018-C, 87-CA-0019-C, and 87-CA-0020-C (IELRB Opinion and Order, December 1, 1987). For that reason, Duncan's charge alleging that the District violated Section 14(a)(5) of the Act must be dismissed.

C. Charge No. 2025-CA-0076-C

i. Alleged 14(a)(1) Violation

Here, Duncan alleges that the District violated Section 14(a)(1) of the Act when they terminated him on June 11, 2025, based what he alleges was a "false assault police report" that the District relied upon for his termination. Section 14(a)(1) of the Act prohibits educational employers from interfering, restraining, or coercing employees in the exercise of rights guaranteed by Section 3 of the Act. 115 ILCS 5/14(a)(1). As stated above, those rights include the right to engage in union or other concerted activity for the purpose of mutual aid or benefit, or to refuse to engage in any such activity. In order for Duncan to demonstrate that the District

violated Section 14(a)(1) of the Act, he must show that (1) he engaged in union or concerted activity, (2) that the District had knowledge of said activity, and (3) that adverse action was taken against him in whole or in part because of that union or concerted activity. *SPEED District 802 v. Warning*, 242 Ill. 2d 92 (2011).

In this case, there is no evidence that Duncan engaged in union or other concerted activity, nor that such activity formed the basis for his termination. Instead, Duncan asserts that he was terminated because of the police report that was filed after he allegedly swung his fist at his supervisor and his refusal to complete assigned work. Moreover, even if Duncan had engaged in protected activity, the District is able to prove that they would have taken the same action regardless of the protected activity. A mixed motive case is one where the employee's evidence does more than create a permissible inference of discrimination; it establishes a clear nexus between the protected activity and the employer's action by a preponderance of the evidence. *City of Burbank v. Illinois State Labor Relations Board* 128 Ill.2d 335, 345 (1989). Where the plaintiff has established that causal link, the employer can still escape liability if it can prove by a preponderance of the evidence that it would have taken the same action regardless of the protected activity. In such cases, the burden of proof shifts to the employer. *NLRB. v. Transportation Management Corp.* 462 U.S. 393, 403 (1983). Here, the District is able to establish their documented concerns of Duncan's work performance, insubordination, and alleged altercation with his supervisor. These concerns led to several investigations over the course of months and ultimately contributed to his termination in June of 2025. The District has met its burden of proving that Duncan would have been terminated regardless of any protected activity. Therefore, the Section 14(a)(1) claim is dismissed.

ii. Alleged 14(a)(3) Violation

For the reasons as set forth above, Duncan is unable to establish a prima facie case for Section 14(a)(3). Therefore, the Section 14(a)(3) claim is dismissed.

iii. Alleged 14(a)(2) Violation

In this case, there is no evidence that the District interfered with the Union's internal administration or processes. Nor is there any evidence that the District dominated the Union by controlling the Union to such an extent that it was a creature of the District and unable to act independently. Accordingly, the Section 14(a)(2) charge is dismissed.

iv. Alleged 14(a)(4) Violation

Here, Duncan alleges a violation of Section 14(a)(4) of the Act. At the time of the filing of this charge, Duncan had previously filed Charge Nos. 2025-CA-0070-C and 2025-CA-0076-C with the Board. As stated previously, in order to establish a prima facie case under 14(a)(4), a charging party must have at least some evidence on each of the following three elements: (1) that employee(s) utilized or participated in the IELRB processes; (2) that the employer was aware of that activity; and (3) that the employer took adverse action against the employee(s) because of that activity. *Prairie State College*, 3 PERI 1116, Case No. 86-CA-0054-C (IELRB Opinion and Order, October 29, 1987). For the reasons articulated in Charge Nos. 2025-CA-0070-C and 2025-CA-0076-C, Duncan satisfied the first two elements of the prima facie case but did not provide any evidence that the District took adverse action against him for utilizing the Board's processes. Therefore, Duncan failed to establish a prima facie case under Section 14(a)(4) of the Act.

v. Alleged 14(a)(5) Violation

As stated above for the reasons in *Thornton Community College District*, as an individual employee Duncan does not have standing to bring a 14(a)(5) violation. 4 PERI 1010, 1987 WL 1435331 (IELRB 1987). Therefore, Duncan is not able to establish a prima facie case of a Section 14(a)(5) violation, and the allegation is thereby dismissed.

V. ORDER

Accordingly, the instant charges are hereby dismissed in its entirety.

VI. EXCEPTIONS

In accordance with Section 1120.30(c) of the Board's Rules and Regulations (Rules), Ill. Admin. Code tit. 80, §§1100-1135, parties may file written exceptions to this Recommended Decision and Order together with briefs in support of those exceptions, not later than 14 days after service hereof. Parties may file responses to exceptions and briefs in support of the responses not later than 14 days after service of the exceptions. Exceptions and responses must be filed, if at all, with the Board's General Counsel, 160 North LaSalle Street, Suite N-400, Chicago, Illinois, 60601-3103. Pursuant to Section 1100.20(e) of the Rules, the exceptions sent to the Board must contain a certificate of service, that is, **"a written statement, signed by the party effecting service, detailing the name of the party served and the date and manner of service."** If any party fails to send a copy of its exceptions to the other party or parties to the case, or fails to include a certificate of service, the 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 with 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: December 31, 2025

Issued: Chicago, Illinois

Victor E. Blackwell, Executive Director

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