

**STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD**

In the Matter of:)	
)	
Kathleen Loftus,)	
)	
Charging Party,)	
)	
and)	Case No. 2005-CA-0012-C
)	
Illinois State Board of Education,)	
)	
Respondent.)	

OPINION AND ORDER

On July 26, 2004, Kathleen Loftus filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (“Board”). On January 31, 2005, the Executive Director issued a Recommended Decision and Order. On February 16, 2005, the Executive Director issued a Corrected Recommended Decision and Order. The Executive Director determined that Loftus’ charge was untimely and that Loftus had not established a prima facie case that the Illinois State Board of Education (“ISBE”) violated Section 14(a)(1) of the Illinois Educational Labor Relations Act (“Act”). Accordingly, he dismissed the unfair labor practice charge in its entirety.

Loftus filed timely exceptions to the Executive Director’s Recommended Decision and Order. Loftus’ exceptions were not accompanied by a certificate of service. The ISBE did not file a response to Loftus’ exceptions. We strike Loftus’ exceptions and affirm the Executive Director’s Recommended Decision and Order on the basis that she did not provide a certificate of service.

I.

Section 1100.20(d) of the Board’s Rules, 80 Ill. Adm. Code 1100.20(d), provides that “[a]ll documents...will be served on the appropriate parties by the party propounding the document...” Section 1100.20(e) of the Board’s Rules, 80 Ill. Adm. Code 1100.20(e), provides that “[w]henver a document is filed with the Board, it shall be accompanied by a certificate of service.” Section 1120.30(c) of the Board’s Rules, 80 Ill. Adm. Code 1120.30(c), provides that “[c]opies of all exceptions [to the

Executive Director's dismissal of a charge] and supporting briefs shall be served upon all other parties and a certificate of service shall be attached." Section 1100.20(e) of the Board's Rules defines a certificate of service as "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(f) of the Board's Rules, 80 Ill. Adm. Code 1100.20(f), provides:

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 (such as lack of notice or detrimental reliance) or demonstrates disregard of the Board's processes (such as continued noncompliance).

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. *International Brotherhood of Teamsters, Local 743, AFL-CIO*, 21 PERI 89, Case Nos. 2004-CB-0002-C, 2004-CA-0006-C (IELRB, May 20, 2005); *International Union of Operating Engineers, Local 143-143-B*, 21 PERI 23, Case No. 2004-CB-0013-C (IELRB, 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 this case, Loftus did not provide a certificate of service or otherwise demonstrate that she served her exceptions on the ISBE. The ISBE has not filed a response to Loftus' exceptions. The ISBE has been prejudiced by Loftus' failure to serve because she denied it an adequate opportunity to respond to her exceptions. Therefore, we strike Loftus' exceptions.

II.

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

III. 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 Board maintains an office (Chicago or Springfield). "Any direct

appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision,” 115 ILCS 5/16(a).

Decided: November 8, 2005
Issued: November 14, 2005
Chicago, Illinois

/s/ Lynne O. Sered
Lynne O. Sered, Chairman

/s/ Ronald F. Ettinger
Ronald F. Ettinger, Member

/s/ Bridget L. Lamont
Bridget L. Lamont, Member

/s/ Michael H. Prueter
Michael H. Prueter, Member

/s/ Jimmie E. Robinson
Jimmie E. Robinson, Member

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