

**STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD**

In the Matter of:)	
)	
Oak Lawn Teachers Council of Local 943, IFT/AFT,)	
)	
Petitioner,)	
)	
and)	Case No. 2005-CA-0080-C
)	
Oak Lawn Community High School District 229,)	
)	
Respondent.)	

OPINION AND ORDER

On June 16, 2005, Oak Lawn Teachers Council of Local 943 (“Council”) filed its unfair labor practice charge against Oak Lawn Community High School District 229 (“District”) alleging a violation of Sections 14(a)(5) and 14(a)(1) of the Illinois Educational Labor Relations Act (“Act”). On December 30, 2005, the Executive Director issued a Recommended Decision and Order in this matter. The Executive Director found that the Council had set forth a prima facie case to support that the District violated Sections 14(a)(5) and 14(a)(1) and referred the matter to arbitration.

The Council and the District filed exceptions to the Executive Director’s Recommended Decision and Order. For the reasons discussed below, we reverse in part the Executive Director’s Recommended Decision and Order.

I.

The following facts are based on the parties’ factual allegations submitted to the Executive Director.

On March 22, 2005, Gregg Perkins, a probationary teacher, was informed that he would not be renewed for the 2005-2006 school year. The Council requested that the District disclose its reasons for Mr. Perkins’ non-renewal, and the District refused. The Council filed this unfair labor practice charge alleging that the District violated Section 14(a)(5), and derivatively Section 14(a)(1), of the Act by failing to disclose, upon the District’s request, the reasons for non-renewal of Mr. Perkins. The Council also filed a grievance with the District challenging Mr. Perkins’ non-renewal on the basis that the District violated the evaluation procedures provisions of the collective bargaining agreement.

II.

The District filed its exceptions to the Executive Director's finding that the Council established a prima facie case that the District violated Sections 14(a)(5) and 14(a)(1) of the Act. The Board has delegated to its Executive Director the authority to investigate charges and issue complaints. 80 Ill. Admin. Code 1120.30(a). Therefore, the Board does not review the Executive Director's conclusion that the charging party has established a prima facie case or that his investigation has established that there is an issue of law or fact sufficient to warrant a hearing.

III.

The Council filed exceptions to the Executive Director's finding that this matter be referred to arbitration. The Council argued that the issue of whether the District has a duty to provide its reasons for dismissing Mr. Perkins is not appropriate for decision by an arbitrator. Further, the Council argued, the issue being grieved, the District's compliance with evaluation procedures, is unrelated to the statutory issue. Therefore, the Council concluded, arbitration will not resolve or assist in the resolution of the pending statutory issue and is, therefore, inappropriate.

"If an alleged unfair labor practice involves interpretation or application of the terms of a collective bargaining agreement and said agreement contains a grievance and arbitration agreement, the Board may defer the resolution of such dispute to the grievance and arbitration procedure contained in said agreement." 115 ILCS 5/14(a)(5). In cases alleging conduct which may constitute both contract breach and statutory violations, the better policy is to refer the matter to arbitration, but retain jurisdiction over the case to insure that any statutory rights at stake are protected. General Service Employees Union, Local 73, 15 PERI 1053, Case No. 97-CA-0034-C (IELRB Decision and Order, May 14, 1998).

In this case, the Council's charge does not allege both contractual and statutory violations. The parties' collective bargaining agreement does not contain a provision relating to the Council's right to request or the District's duty to disclose information, upon request, to the Council. Furthermore, the Council did not allege a contract breach, but only a statutory violation, i.e. the District failed to provide the Council, upon request, with the reasons for its refusal to renew a probationary teacher. The Council's request for information and the District's duty to provide relevant information arise separate and apart from any other contractual disputes. Absent a contractual issue, referral to arbitration is not appropriate.

Accordingly, we find that the Executive Director's decision referring this case to arbitration be reversed and that the case be remanded to the Executive Director for issuance of a Complaint and Notice of Hearing.

III. Right to Appeal

This is a final order of the IELRB. Aggrieved parties may seek judicial review of this Order in accordance with the provisions of the Administrative Review Law, except that, pursuant to 115 ILCS 5/16(a), such review must be taken directly to the appellate court of the judicial district in which the IELRB 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: May 9, 2006
Issued: May 19, 2006
Chicago, Illinois

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

/s/ Ronald Ettinger
Ronald Ettinger, Member

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

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

/s/ Jimmie Robinson
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