STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD

In the Matter of:	)	
	)	
Grant J. Corns,	)	
	)	
Charging Party,	)	
and	)	Case No. 2006-CA-0035-S
	)	
Hillsboro Community Unit School District No. 3,	)	
	)	
Respondent.	)	

OPINION AND ORDER

On February 14, 2006, Grant Corns ("Corns") filed an unfair labor practice charge alleging that the Hillsboro Community Unit School District No. 3 ("District 3") violated Section 14(a)(1) and Section 14(a)(3) of the Illinois Educational Labor Relations Act, 115 ILCS 5/1 et. seq. ("IELRA" or "Act"). On August 31, 2006, the Executive Director issued a Recommended Decision and Order dismissing the charge in its entirety. On September 8, 2006, Corns filed exceptions to the Executive Director's Recommended Decision and Order. Corns' exceptions were not accompanied by a certificate of service.[1] On September 13, 2006, District 3 filed a Response to Corns' Exceptions. For the reasons discussed below, we affirm the Executive Director's Recommended Decision and Order.

I.

According to Corns, he began working for District 3 in or about November 1997 as a substitute bus driver. As a substitute bus driver, Corns transported differently-abled students to and from school in a van equipped to transport students in wheelchairs. Corns alleges that he transported differently-abled students in the 1997-1998, 1998-1999 and 1999-2000 school years. In or about the 2000-2001 school years, Corns became a full-time bus driver and transported students in a school bus for District 3.

Corns alleges that during his second and third school years of employment as a substitute bus driver he was denied seniority, holiday pay, summer pay and paid sick leave. After becoming a full-time

[1] Pursuant to Section 1100.20(e) of the Illinois Educational Labor Relations Board's Rules and Regulations, 80 Ill. Admin. Code §§ 1100-1135, the Board typically dismisses exceptions that are filed without a certificate of service. *McGreal v. Service Employees International Union, Local 73*, 21 PERI 64, Case No. 2005-CB-0019-C (IELRB Opinion and Order, November 14, 2005). However, in this case the Respondent filed a response to the Charging Party's exceptions and was not prejudiced by the lack of a certificate of service.

bus driver, Corns began receiving seniority credit, holiday pay, summer pay and paid sick leave. Corns alleges that he is the only District 3 bus driver to serve more than one year school year as a substitute bus driver and to be denied seniority credit, holiday pay, summer pay and paid sick leave. According to Corns, as a result, during his second and third school years of employment, he did not accrue seniority or benefits. Corns alleges that the other bus drivers accrued seniority and benefits commencing with their second school year of employment. Corns began accruing seniority and benefits commencing with is fourth school year of employment, the 2000-2001 school year.

District 3 alleges that of the twenty-six bus drivers on its seniority list, fourteen were initially employed as substitute drivers. According to District 3, one driver worked for approximately thirty-three school years as a substitute bus driver before becoming a full-time bus driver; Corns worked for approximately three school years as a substitute bus driver before becoming a full-time bus driver; five drivers worked for approximately two school years as substitute bus drivers before becoming full-time bus drivers; four drivers worked for approximately one school year as substitute bus drivers before becoming full-time bus drivers.

District 3 alleges that, on or about September 22, 1998, it initially employed Corns as a substitute bus driver. District 3 further asserts that during the 1998-1999 school year, Corns substituted for various drivers on different routes as needed.

District 3 continues to allege that during the 1999-2000 and 2000-2001 school years, Corns was assigned to transport a student in a wheelchair in a District van specially equipped to safely transport students in wheelchairs. According to District 3, Corns was paid on a daily basis because the student was frequently absent. Corns was paid on the school days that he transported the differently-abled student. On the school days the differently-abled student did not require transportation Corns did not work and, consequently, was not paid.

During the 2001-2002 school year, District 3 alleges that Corns also drove a van for an individual student. According to District 3, Corns was paid only for the school days he transported the student to and from school. Corns did not receive any seniority credit, holiday pay, summer pay nor paid sick leave.

According to District 3, Corns did not receive any seniority credit, holiday pay, summer pay or paid sick leave during the 1998-1999, 1999-2000, 2000-2001 and 2001-2002 school years as a substitute bus driver for District 3.

District 3 alleges that Corns was assigned to drive a full-time morning and afternoon bus route for the 2002-2003 school year. Consequently, Corns, for the first time, became a full-time bus driver at the beginning of the 2002-2003 school year and, for the first time, began receiving seniority credit, holiday pay, summer pay and paid sick leave. Corns' full-time seniority date shown in the seniority list is August 26, 2002, the beginning of the 2002-2003 school year when he was assigned a full-time bus route.

District 3 alleges that, by practice, full-time bus drivers are those who work at least three hours per day, five days per week, the equivalent of one morning route and one afternoon route. Only full-time drivers receive seniority credit, holiday pay, summer pay and paid sick leave.

In response, Corns alleges that, during the 1997-1998, 1998-1999, and 1999-2000 school years, he transported differently-abled students every school day to and from school as a District 3 substitute bus driver. According to Corns, he drove a minimum of three hours per school day five days per week, one morning route and one afternoon route, for his three school years working as a substitute bus driver. Corns denies District 3's characterization of his work schedule during these years as a day-to-day substitute bus driver working only on those school days when he was needed.

Corns met with District 3 Superintendent Don Burton in or about March 2006. Corns told Superintendent Burton that it was not right that he did not accrue seniority credit, holiday pay, summer pay and paid sick leave beginning with his second school year of employment by District 3. Corns alleges that he also told Burton that the other District 3 bus drivers began receiving seniority credit, holiday pay, summer pay and paid sick leave beginning with their second school year of employment by District 3. Corns alleges that Burton just dismissed him, essentially refusing to do anything about the allegedly inequitable treatment Corns had received.

In or about August 2005, Corns alleges that he suggested to one of the elected bus driver representatives that "we should consider having a union represent us." According to Corns, the representative just said, "no union would want to represent us." Corns did not make any further suggestions to the bus drivers concerning union representation. According to Corns, no one including his immediate

supervisor, Superintendent Burton, any other District 3 Administrators, nor any member of the District 3 Board of Education ever directly or indirectly threatened him with retaliation for seeking union representation for the bus drivers. The bus drivers employed by District 3 were not represented by a union at any time material to this case.

According to Corns, he filed his unfair labor practice charge to protest the fact that he was denied seniority credit, holiday pay, summer pay and paid sick leave for his second and third school years – the 1998-1999 and 1999-2000 school years – he served as a substitute bus driver. Corns alleges that all the other District 3 bus drivers only served one school year as a substitute bus driver before becoming full-time bus drivers and commencing to accrue seniority credit, holiday pay, summer pay and paid sick leave.

District 3 contends that none of its supervisors and agents was aware that Corns ever spoke with other bus driver employees regarding forming a union. While District 3 acknowledges that any such discussions Corns may have had with other bus driver employees would be protected by the Act, it denies ever taking any adverse actions against him for any such discussions that may have occurred.

II.

Corns' first exception is that he was hired by District 3 in November 1997, not in September of 1998. The facts section of the Executive Director's Recommended Decision and Order contains Corns' assertion that he was hired as a substitute bus driver in November 1997. *See* Executive Director's Recommended Decision and Order p. 2. The Executive Director's Recommended Decision and Order does not decide whether Corns' assertion is true or whether District 3's assertion that Corns was hired in September 1998 is true. The date Corns was hired does not materially affect the unfair labor practice allegation.

Corns' second exception is that the Illinois Educational Labor Relations Board ("IELRB") Executive Director accepted without question the statement of District 3 that he was a part-time employee for the 1999-2000[2] and 2000-2001 school years, and rejected his statement that he worked every school day for that entire period except when absolutely necessary and scheduled in advance. Corns contends that the investigator should have requested his employment records.

[2] Corns' exceptions actually state "the 1991-2000 and 2000-2001 school years." Because Corns was not employed by District 3 in 1991, we assume that Corns' reference to the 1991-2000 school year was a typographical error. In any event, the conduct of District 3 in any school year prior to August 2005 has no bearing on any issues within the jurisdiction of the IELRB for the reasons that are discussed below.

Whether Corns was a part-time employee during the 1999-2000 and 2000-2001 school years has no bearing on any issue within the jurisdiction of the IELRB. The IELRB's jurisdiction is limited to matters encompassed by the Act, e.g., the right to engage in union or other protected concerted activity. Here, Corns' protected activity occurred in or about August 2005. Thus, actions of the District during the 1999-2000 and 2000-2001 school years cannot have been motivated by his protected activity. The investigator was not required to request records that could have no bearing on the disposition of the case.[3]

Moreover, Corns did not supply his work records with the rest of his evidence. There was an adequate investigation to determine whether Corns' unfair labor practice charge stated an issue of law or fact requiring the issuance of a Complaint.

Corns' third exception is that the IELRB is in effect acting as an agent for District 3 and lacks credibility as an independent agency. The IELRB believes that the Executive Director adequately and impartially considered the evidence and applied the law.

III.

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.

IV. 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

[3] The National Labor Relations Board has stated that "the Regional Director has extremely broad authority to determine the extent of the investigation into any unfair labor practice charge," *Opryland Hotel*, 323 NLRB 723, 727 (1997). In *Lincoln-Way Area Special Education Joint Agreement District 843*, 21 PERI 163, Case Nos. 2004-CA-0060-C, 2004-CB-0024-C (IELRB, September 13, 2005) (appeal pending), the Illinois Educational Labor Relations Board ("IELRB") determined that the Executive Director of the IELRB has similarly broad authority. As the IELRB noted in *Community Consolidated School District No. 59*, 1 PERI 1158 at VII-320, Case Nos. 85-CA-0007, 85-CB-0006-C (IELRB, August 14, 1985), the IELRB's Rule governing the investigation of unfair labor practices (Section 1120.30 of the IELRB's Rules, 80 Ill. Adm. Code 1120.30) does not place any minimum requirements on the scope of the investigation. The Executive Director, or his/her agents, is required only to conduct sufficient investigation to determine whether the charge states an issue of law or fact requiring the issuance of a Complaint.

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 14, 2006
Issued: November 15, 2006
Chicago, Illinois

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

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

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

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

Board Member Bridget L. Lamont did not participate in the deliberation or decision of this case.

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