## STATE OF ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD

In the Matter of:	)	
	)	
Peoria Federation of Teachers, Local 780,	)	
IFT/AFT,	)	
	)	
Complainant,	)	Case Nos. 2006-CA-0006-S
	)	2006-CA-0008-S
and	)	2006-CA-0032-S
	)	
Peoria School District 150,	)	
	)	
Respondent.	)	

## **OPINION AND ORDER**

On July 31, 2006, an Administrative Law Judge ("ALJ") issued a Recommended Decision and Order in this case. The ALJ determined that Peoria School District 150 ("District") had violated Section 14(a)(5) and, derivatively, Section 14(a)(1) of the Illinois Educational Labor Relations Act, 115 ILCS 5/1 et seq. ("Act") by removing administrators from the self-funded insurance plan without affording the Peoria Federation of Teachers, Local 780, IFT/AFT a meaningful opportunity to bargain the impact of that decision, increasing insurance premiums without the participation of the District's Insurance Committee, and changing the vision plan carrier without the participation of the Insurance Committee. The ALJ also determined that the District had violated Sections 14(a)(5) and 14(a)(1) of the Act by restricting the access of Insurance Committee members to the insurance brokers. In addition, the ALJ decided that the District had violated Section 14(a)(1) of the Act by refusing to arbitrate certain grievances. The District states in its exceptions that its attorneys received the ALJ's Recommended Decision and Order on August 2, 2006.

On August 23, 2006, the District sent to the Illinois Educational Labor Relations Board ("Board") by regular mail exceptions to the ALJ's Recommended Decision and Order. The Board received the exceptions on August 25, 2006. On September 28, 2006, the Federation filed a response to the District's exceptions.

<sup>&</sup>lt;sup>1</sup> This statement is binding on the District as a judicial admission. *See Wausau Insurance Co. v. All Chicagoland Moving and Storage Co.*, 333 Ill.App.3d 1116, 777 N.E.2d 1062 (2<sup>nd</sup> Dist. 2002); *Dauen v. Board of Fire & Police Commissioners*, 275 Ill.App.3d 487, 656 N.E.2d 427 (3<sup>rd</sup> Dist. 1995); *Prentice v. UDC Advisory Services, Inc.*, 271 Ill.App.3d 505, 648 N.E.2d 146 (1<sup>st</sup> Dist. 1995); *Lowe v. Kang*, 167 Ill.App.3d 772, 521 N.E.2d 1245 (2<sup>nd</sup> Dist. 1988).

We strike the District's exceptions as untimely. Section 1105.220(b) of the Board's Rules, 80 Ill. Admin. Code 1105.220(b), provides that exceptions to an ALJ's Recommended Decision and Order may be filed "no later than twenty-one days after the receipt of the recommended decision." Section 1120.50(a) of the Board's Rules, 80 Ill. Admin. Code 1120.50(a), provides that, if no exceptions are timely filed, "the parties will be deemed to have waived their exceptions." In pertinent part, Section 1100.20(a) of the Board's Rules, 80 Ill. Admin. Code 1100.20(a), provides:

Except as otherwise specified in the rules of the Board, documents shall be considered filed with the Board on the date they are received by the Board or on the date they are postmarked if sent by registered or certified mail. Documents sent by any means other than registered or certified mail shall be considered filed on the date they are received by the Board, except that documents shall be considered filed on the date they are tendered to an overnight delivery service, if that service provides a receipt showing the date on which the documents were tendered for delivery.

Here, the District filed its exceptions by regular mail. Therefore, they are considered to have been filed on the date that the Board received them, which was August 25, 2006. August 25, 2006 was more than 21 days after August 2, 2006, the date that the District's attorneys received the ALJ's Recommended Decision and Order. Accordingly, the District's exceptions must be stricken as untimely.

Similarly, in *Peoria School District 150*, 22 PERI 134, Case No. 2005-CA-0028-S (IELRB, October 11, 2006), the employer filed its exceptions by regular mail. The Board considered the exceptions to have been filed on the date that it received them, which was more than 21 days after the date that the employer's attorneys received the Administrative Law Judge's Recommended Decision and Order. Accordingly, the Board struck the exceptions. The same result applies here.

In *Pierce v. IELRB*, 334 Ill.App.3d 25, 777 N.E.2d 570 (1<sup>st</sup> Dist. 2002) and in *Board of Education* of City of Chicago v. IELRB, 289 Ill.App.3d 1019, 682 N.E.2d 398 (1<sup>st</sup> Dist. 1997), the Appellate Court concluded that a party waived its right to contest an ALJ's Recommended Decision and Order by failing to file timely exceptions to that Recommended Decision and Order. We reach the same conclusion here.

For the above reasons, we strike the District's exceptions. The ALJ's non-precedential Recommended Decision and Order is final and binding on the parties.

## 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: April 12, 2007 Issued: April 19, 2007

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

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