View metadata, citation and similar papers at core.ac.uk

brought to you by CORE

provided by Chicago-Kent College of Law

Chicago-Kent College of Law
Scholarly Commons @ IIT Chicago-Kent College of Law

The Illinois Public Employee Relations Report | Institute for Law and the Workplace

Fall 2005

Vol. 22, No. 4

Rochelle Gordon
Illinois Department of Employment Security

Brian Clauss

Follow this and additional works at: http://scholarship.kentlaw.iit.edu/iperr

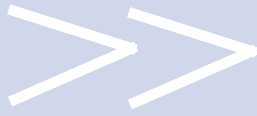
Part of the Labor and Employment Law Commons

Recommended Citation

Gordon, Rochelle and Clauss, Brian, "Vol. 22, No. 4" (2005). *The Illinois Public Employee Relations Report*. 35.
http://scholarship.kentlaw.iit.edu/iperr/35

This Book is brought to you for free and open access by the Institute for Law and the Workplace at Scholarly Commons @ IIT Chicago-Kent College of Law. It has been accepted for inclusion in The Illinois Public Employee Relations Report by an authorized administrator of Scholarly Commons @ IIT Chicago-Kent College of Law. For more information, please contact dginsberg@kentlaw.iit.edu.

Illinois Public Employee Relations



REPORT

Fall 2005 • Volume 22, Number 4

Privatization of Public Educational Services: The Application of the Doctrine of Successorship in the No Child Left Behind Era

by Rochelle Gordon & Brian Clauss

I. Introduction

In 1987, President Ronald Regan issued Executive Order 12607 establishing the Commission on Privatization, and directed it to "study and evaluate past and current privatization efforts" by federal, state and local governments,[1] and to "develop a framework for a privatization program, identifying privatization opportunities . . . and actions necessary to create broad based support for privatization efforts."[2] The Commission issued its report on March 18, 1988. Since that time, the call for privatization has continued as a means to shrink government and to provide the public with government services at less cost and presumably higher quality. Underlying the principle of privatization is the assumption that private entities are more efficient than governmental entities because the former are motivated by market forces.[3]

In general, the term privatization refers to the "transfer of government assets, including labor, from a government to a private entity."[4] Privatization is increasingly encountered in a broad range of services historically reserved to government, including prison administration, public parks and land administration and some aspects of national defense, including military logistics, supply and operation.[5]

The privatization of public educational services has, for at least the last decade, been advanced as a means to improve the quality of public education across the United States. Its acceptance by the public is driven by the perceived decline in the performance of American elementary and secondary students over the last forty years.[6] This arena is clearly a serious one as evidenced, for example, by the existence of the National Center for the Study of Privatization in Education at the Columbia University Teachers College.[7] The Reason Foundation's Education Director recently wrote an article reporting that "school choice legislation is all the rage in 2005."[8] The term "school choice" is interchangeable with the term "public school privatization."

Consistent with current political sensibilities, the concept of privatization of public education is being marketed under the umbrella of school choice as a means to ensure that American children are able to meet learning standards set by the various state boards of education throughout the United States. Indeed, this is the declared purpose of The No Child Left Behind Act of 2001 (NCLBA).[9]

Recognizing that in most major urban areas, teachers and other school personal are unionized, this article will focus on two areas. Will the doctrine of successorship impose on private providers of public educational services a duty to bargain? In cases where the successorship doctrine applies, which labor board, the National Labor Relations Board (NLRB) or, in Illinois, the Illinois Educational Labor Relations Board (IELRB), has jurisdiction?

II. No Child Left Behind Act: An Overview

The NCLBA is a massive and difficult piece of legislation. Much has already been written about it. This section is intended as a brief overview of the NCLBA to assist those readers not familiar with its key components. Those interested in further detail can access a variety of media, including the Internet, for further information.[10]

The NCLBA applies to school districts,[11] who are the recipients of federal funds. The purpose of the NCLBA of 2001 is to "ensure that all children have a fair, equal, and significant opportunity to obtain a high-quality education and reach, at a minimum, proficiency on challenging state academic achievement standards and state academic assessments."[12] Its focus is on disadvan-

INSIDE

Recent Developments 09
Further References 11

taged elementary and high school students living in high poverty areas. In short, its aim is to close the gap in academic performance between low achieving students deemed economically disadvantaged and high achieving students from economically secure environments.[13] It requires accurate and high quality academic assessment of student performance, improved accountability systems, and the hiring and retention of "highly qualified" teachers.[14] It obliges school districts to notify parents when their child's teacher is not highly qualified or if the school their child attends is "persistently dangerous," in which case the parents have a right to transfer their child to a safe school.[15]

The NCLBA sets forth the following goals and deadlines for meeting them:

- By 2013-2014 - Proficiency or better in math and reading for all students. With respect to reading, all students must be proficient by the end of third grade. All students for whom English is a second language must be proficient in English.[16]

- By 2005-2006 - All students will be taught by "highly qualified" teachers. All students will be educated in learning environments that are safe, drug free and conducive to learning. All students will graduate from high school.[17]

The state boards of education, referred to under the NCLBA as the "state educational agency" (SEA)[18] are tasked with enforcing the requirement that each school district meets the achievement standards. To this end, SEAs are required to measure the "annual yearly progress" (AYP) their school districts are making toward compliance.[19] The following elements are required to achieve AYP: (1) identical high standards of academic achievement for all students; (2) separate measurable annual objectives for achievement for all students not altered by virtue of racial/ethnic, economic, disability or limited English language proficiency classifications; (3) statistically valid and reliable achievement testing and (4) continuous and substantial academic improvement for all students.[20]

Schools that fail to make such progress are identified as in need of improvement and must develop corrective action plans.[21] Notice to parents must be given with their options to either transfer their child to another school within the district or for supplemental educational services (SES).[22] The SES is typically intensive tutoring by private providers approved by the SEA.

Continuous failure to achieve AYP may eventually result in the need for more dramatic action. Such action can include alternative governance. Specifically, Section 6316(b)(8)(B) provides that a failing school district will have to select one of the following options:[23]

- Reopening the school as a public charter.
- Replacing all or most of the school staff (inclusive of the principal) relevant to the failure to make adequate yearly progress.
- Entering into a contract with an entity, such as a private management company,[24] with a demonstrated record of effectiveness, to operate the public school.
- Turning the operation of the school to the SEA, if permitted under state law and agreed to by the state.

A board of education that decides to replace all or most of its school staff at its failing schools will continue to be bound by the collective bargaining agreements it has entered with labor unions representing the school's employees. A decision to exercise one of the other options, however, will extinguish a board of education's collective bargaining obligations. Reopening the school as a charter school or contracting with a private management company to operate the school, places the provision of educational services in the hands of a private sector organization.[25] Is a private

---

Rochelle Gordon is a labor arbitrator and an administrative law judge with the Illinois Department of Employment Security. She served as Associate General Counsel for the Labor Law Unit of the Chicago Board of Education Law Department from 1997 - 2004. She also served as a Legal Advisor to the Cook County Department of Corrections, where she was the chief advisor on labor relations matters, and was an associate at Robbins, Schwartz, Nicholas, Lifton and Taylor. Ms. Gordon served as a law clerk to the Honorable Judge Alvin I. Krenzler, U.S. District Court, Northern District of Ohio. She also practiced as a legal aid attorney and clerked for a judge of the Circuit Court of Prince Georges County, Maryland. She holds a J.D. from The John Marshall Law School and a bachelor's degree from Northeastern Illinois University.

Brian Clauss is an arbitrator and mediator concentrating in labor and employment matters. Mr. Clauss represented Cook County in labor and employment matters in arbitration hearings, state court and Federal Court as an Assistant Cook County State's Attorney. He began his legal career as a prosecutor in the Criminal Division of the Cook County State's Attorney.

In his current practice as a neutral, Mr. Clauss serves on numerous panels and rosters. He recently co-authored the update to the Public Employment chapter of the *Labor Law Handbook,* published by the Illinois Institute for Continuing Legal Education. He also teaches college courses in Labor and Employment Law as an adjunct professor. He graduated from Lake Forest College and received his law degree from The John Marshall Law School.

sector educational provider obligated to abide by the collective bargaining agreement and to bargain with unions representing educational employees? The next section examines the concept of " "successorship" to determine its applicability to the privatization of public educational services.

III. The Doctrine of Successorship

The successorship doctrine is essentially a private-sector labor concept that can be utilized to impose a duty to bargain on a successor employer who has taken over the operations of an existing business with a workforce represented by a labor union. This can arise when a business is sold or through a merger or acquisition. The doctrine may apply where a union seeks to impose on the new employer (1) a duty to bargain; (2) a duty to arbitrate a dispute under the collective bargaining agreement it had with the predecessor employer; and (3) liability for the predecessor employer's unfair labor practices.

A. Private Sector Successorship Cases

The successorship doctrine as it exits today evolved from a line of Supreme Court decisions that began in 1964 with *John Wiley & Sons, Inc. v. Livingston*.[26] Wiley acquired Interscience Publishers, Inc. through a merger. It retained Interscience's unionized employees to perform the same business operations previously performed by Interscience. The union that represented the Interscience employees sought to compel Wiley to arbitrate its claim that certain rights under the Interscience collective bargaining agreement survived the merger. The Court held that "the disappearance by merger of a corporate employer which has entered into a collective bargaining agreement with a union does not automatically terminate all rights of the employees covered by the agreement, and that, in appropriate circumstances, present here, the successor employer may be required to arbitrate with the union under the agreement."[27] The Court clarified that a contract may not survive all mergers;[28] specifically it may not survive where there is a "lack of continuity in the business enterprise before and after the change."[29]

In 1972, the Court decided *NLRB v. Burns International Security Services, Inc.*[30] Burns replaced a predecessor employer providing security services to a Lockheed Aricarft Services Company facility.[31] The NLRB had ordered Burns to bargain with the predecessor's union and to observe the terms of the predecessor's contract.[32] The Court held that Burns was not obligated to observe the contract but was obligated to recognize the union.[33] The Court found two factors critical in imposing an obligation to bargain on the successor: a majority of the employees hired by the successor previously worked for the predecessor and the predecessor's employees recently voted in favor of union representation.[34]

A year later, in *Golden State Bottling Co. v. NLRB*,[35] the Court held that a successor employer may have a duty to remedy its predecessor's unfair labor practice. The Golden State Bottling Company was sold to All American Beverages.[36] Prior to the sale, an unfair labor practice complaint against Golden State resulted in an order to reinstate a discharged employee. All American purchased Golden State with knowledge of the NLRB's reinstatement order, and for this reason, the Court imposed on All American liability for its predecessor's violation of the NLRA.[37] Additionally, the Court reasoned that failure to hold the successor liable would be perceived by the unionized employees as a continuation of Golden State's illegal labor policies and practices, thus resulting in labor unrest.[38]

Approximately one year later, the Court decided *Howard Johnson Co. v. Detroit Local Joint Executive Board*.[39] Howard Johnson purchased from its franchisee a restaurant and motor lodge.[40] Their contract provided that Howard Johnson would not assume the franchisee's collective bargaining agreements, even though both agreements contained provisions that obligated successors to comply with their terms.[41] Howard Johnson hired only nine of the predecessor's employees.[42] The unions claimed that Howard Johnson's failure to hire the others breached the contracts' no lockout clauses and sought to arbitrate this issue but Howard Johnson refused.[43] The Court held that Howard Johnson was not obligated to arbitrate because of a lack of substantial continuity in the identity of the workforce because Howard Johnson hired only nine of the predecessor's fifty-three person workforce.[44]

The Court further clarified the test for successorship thirteen years later in *Fall River Dyeing & Finishing Corp. v. NLRB*.[45] Fall River purchased the assets of a company that had laid off its employees and gone out of business seven months earlier.[46] The predecessor's union demanded bargaining and Fall River refused.

The Court approved the NLRB's approach of determining, from the totality of the circumstances, substantial continuity between the employees' jobs with the successor and the predecessor.[47] It found substantial continuity because Fall River acquired most of the predecessor's real property, inventory and materials, did not introduce a new product line, and the employees' jobs did not change.[48] The seven month hiatus was not dispositive.[49] Because the majority of Fall River's employees had worked for

the predecessor, Fall River was obligated to bargain with the union.[50]

B. Illinois Public Sector Successorship Cases

In the education arena, the death and subsequent reincarnation of a community college, pursuant to applicable legislation, resulted in a series of decisions concerning a dispute between a labor organization and a community college employer. The first of these cases was decided in 1997 by Chief Administrative Law Judge Mark Stein. *Metropolitan Community College District 541*[51] involved parallel unfair labor practice charges against the Board of Trustees of State Community College (SCC) and the Metropolitan Community College District (MCC) based on a refusal to bargain over changes in wages, hours, and terms and conditions of employment that resulted when SCC, an experimental community college, transitioned into MCC, a permanent community college district.[52] The union representing SCC employees demanded that MCC bargain a new contract following the transition. MCC refused. At issue were the successor employer's obligation to bargain and whether it could be held liable for SCC's unfair labor practice of refusing to bargain during the transition phase. Judge Stein noted, "In the private sector, one who acquires and operates a business of an employer found guilty of unfair labor practices, in basically unchanged form, in circumstances which charge him with notice of the charges against his predecessor, is held responsible for remedying his predecessor's unlawful conduct."[53] Judge Stein also rejected the employer's arguments that the private sector law of successorship did not apply in the public sector:

> Although a public employer, such as MCC, succeeds another employer through a legislative or governmental decision, rather than a business decision, the effects on employees are the same as in the private sector.
>
> The policy considerations which support the private sector approach are also present in the public sector. If employees find themselves in essentially the same jobs after the employer transition and if their legitimate expectations in continued representation are not met, their dissatisfaction may lead to unrest thereby thwarting the Act's policy of promoting labor peace.[54]

Applying *Fall River*, Judge Stein found that MCC was the successor to SCC and had an obligation to bargain when it employed a majority of employees who had previously been members of the bargaining unit at SCC.[55] The IELRB affirmed Judge Stein's Recommended Decision and Order.[56]

C. Application of the Successorship Criteria to Privatized Public Schools

In a practical sense, a charter school organization or educational management organization (EMO) will have to hire a majority of the employees who were employed by the public school district that grants the charter or engages the EMO, for it to be a successor. In a large school district, the more interesting question is whether a majority of the *specific employees assigned to the specific school* that the charter or EMO has undertaken to operate have to be hired or whether hiring any of the school district's current or former employees satisfies the successorship test. The following section considers a threshold question: which labor relations agency has jurisdiction to resolve these issues.

IV. Privatization of Educational Services

A. Illinois Educational Labor Relations Board - The Educational Employer Requirement

Section 1 of the IELRA states the policy and purpose of the IELRA to:

> [p]romote orderly and constructive relationships between all educational employees and their employers. Unresolved disputes between educational employees and their employers is injurious to the public, and the General Assembly is therefore aware that adequate means must be established for minimizing them and providing for their resolution. It is the purpose of this Act to regulate labor relations between educational employers and educational employees, including the designation of educational employee representatives, negotiation of wages, hours and other conditions of employment and resolution of disputes arising under collective bargaining agreements.[57]

The IELRB has jurisdiction over educational employers, educational employees and employee or labor organizations that represent educational employees. Section 2(a) of the IELRA defines educational employer to mean:

> the governing body of a *public school district*, combination of *public school districts*, including the governing body of joint agreements of any type formed by 2 or more school districts, public community college district or State college or university, and any State agency whose major function is providing educational services.[58]

In view of this definition of "educational employer," it is useful to understand the meaning of the term "public school district." We must turn to the School Code for the answer.[59] Section 1-3 of the School Code references "common schools," "free schools" and "public schools" and "school board" as follows:

> The terms "common schools", "free schools" and "public schools" are used interchangeably to apply to any school operated by authority of this Act. "School board" means the governing body of any district created or operating under authority of this Act, including board of school directors and board of education. When the context so indicates it also means the governing body of any non-high school district and of any special charter district, including board of school inspectors.[60]

The term "school district" is defined in the section of the School Code that delineates the powers and duties of the State Board of Education. It provides:

> (a) For purposes of this Section and Sections 3.25b . . . 3.25f of this Code, "school district" includes other public entities responsible for administering public schools, such as cooperatives, joint agreements, *charter schools*, special charter districts . . . and the Department of Human Services.[61]

The above section of the School Code was adopted in 2003 by the General Assembly as one provision in "[a]n Act to implement the federal No Child Left Behind Act of 2001."[62] The only other section of the School Code with a definition of the term school district is the School Construction Law.[63]

The IELRB has issued several decisions implicating the definition of "educational employer." In *McCall and The Woodlawn Organization*,[64] the Executive Director dismissed an unfair labor practice charge brought against a not-for-profit organization that operated a Head Start program on the ground that the IELRB lacked jurisdiction because the respondent was not an educational employer as defined in Section 2(a) of the IELRA. In 1990, the Executive Director dismissed an unfair labor practice charge filed against Loyola University of Chicago for the same reason.[65]

The full board recently faced the issue of whether the Illinois School for the Deaf (ISD) was an educational employer under the IELRA.[66] The Illinois Federation of Teachers filed a unit clarification petition seeking to add two employees of the school that were classified as "Educator-Provisional" (EP) to an ISD bargaining unit of regularly certified teachers. AFSCME represented the bargaining unit that included EP certified teachers. AFSCME and the ISD argued that the IELRB did not have jurisdiction because the ISD was not the actual employer of the employees. They asserted that the Department of Human Services was the employer.

The IELRB held that a party is regarded as the employer if the party's presence at the bargaining table is required. Thus, if the alleged employer has the authority to hire, promote, evaluate, discipline, discharge and to set funding for the employees in question, as well as authority to obtain funding and set fringe benefits, it is the employer.[67] The IELRB remanded the case for further investigation, holding that if the ISD was the employer the IELRB would have jurisdiction because Section 2(a) defines educational employer to include "any State agency whose major function is providing educational services."[68]

The IELRB has not yet faced the issue of whether a charter school is a school district under Illinois law. Application of the definition of "school district" provided in Section 2-3.25 of the School Code supports a finding that charter schools are public school districts and therefore educational employers. On the other hand, the specific section that includes charter schools in the definition of "school district" limits it applicability to "this [s]ection and Sections 3.25b . . . 3.25f of this Code."[69]

Charter schools are governed by Article 27A of the School Code. Charters schools existed well before the No Child Left Behind Act. A charter school is a "public, non-sectarian, non-religious, non-home based, and non-profit school" organized and operated as a nonprofit corporation . . . authorized under the laws of the State of Illinois."[70] It is established by creating a new school or converting an existing public school to charter school status.[71] It is administered and governed by its board of directors or "other governing body" in the manner provided in its charter.[72] The governing body is subject to the Freedom of Information Act and the Open Meetings Act.[73] Nonprofit corporations, individuals or organizations that will have a majority representation on the board of directors interested in operating a charter school submit a proposal to the Illinois State Board of Education and to the local school board.[74] There is no specific provision in Article 27A prohibiting charter school employees from union membership or labor organizations from organizing such employees. Section 27A-5(g) provides that charter schools are exempt from all other state laws and regulations *in the School Code* except for Article 27A and those specifically identified within that section.[75] One of the exceptions is a section from the General Not For Profit Corporation Act of 1986,[76] clearly not a School Code provision. The inclusion of that exception may provide an argument that charter schools need not comply with any Illinois statute, including the Illinois Educational Labor Relations Act.

Thus, charter schools are not, in a traditional sense, public school districts. Charter schools exist within a school district operated by the local board of education that grants the charter. Once the charter application is granted, the charter school is more

or less autonomous in conducting its operation. The charter school is governed by its board of directors like any other not-for-profit enterprise. Charter schools are not directly created by law. The law allows private persons to form a not-for-profit corporation to create and operate the charter school. Accordingly, the IELRB does not have jurisdiction over it. There is no question that private nonprofit organizations fall under the jurisdiction of the National Labor Relations Board (NLRB).

B. NLRB Jurisdiction: Political Subdivision Exclusion

Labor relations between private sector employers and their unionized employees are governed by National Labor Relations Act (NLRA).[77] Political subdivisions are specifically excluded from the definition of the term "employer."[78] Charter schools, "contract" school entities and educational management organizations are either not-for-profit or for-profit corporations incorporated under a state's law. It would thus seem to follow that labor relations between these organizations and their employees, either as a result of being deemed successor employers or being newly-organized by a labor organization, would be governed by the NLRA.

It is anticipated that charter school employees in Illinois and other states will be organized by those labor unions that traditionally represent educational employees. In Massachusetts for example, fifty of the state's 2,000 charter schools have joined the Massachusetts Federation of Teachers.[79] The question of whether the NLRB or the IELRB has jurisdiction over a charter school's labor relations is not merely academic.

Federal law controls whether an employer is a "political subdivision."[80] Entities that are created directly by the state, so as to constitute departments or administrative arms of the government, or are administered by individuals who are responsible to public officials or to the general electorate constitute political subdivisions under section 2(2) of the NLRA.[81] The NLRB considers the "actual operations and characteristics" when determining whether an entity is a political subdivision.[82] State law declarations and interpretations of state courts regarding the public or private character of the entity are considered by the NLRB.[83] However, the state court interpretations and statutory declarations are not controlling.[84]

In *Management Training Corp.*,[85] the NLRB adopted a two pronged test to determine whether it would assert jurisdiction over a private sector employer with close ties to an exempt governmental entity. It is determined first whether the employer meets the definition of an "employer" under section 2(2) of the NLRA, and second whether the employer meets the statutory and monetary levels for NLRB jurisdiction. A party to NLRB litigation may assert that the charter school is a political subdivision of government and therefore not subject to NLRB jurisdiction.

While the issue of whether the NLRB has jurisdiction over an Illinois charter school has not been addressed, the NLRB has provided an analytical framework for the issue in a case involving an Arizona charter school. In *C. I. Wilson Academy, Inc.*,[86] the respondent charter school argued that it was a political subdivision of the State of Arizona based on a provision in the Arizona Revised Statutes declaring charter schools to be public schools. An Arizona Attorney General (AAG) legal opinion was cited in support of Wilson Academy's position. The AAG concluded that a charter school constituted a "public body" and therefore was subject to the Arizona Public Records Law and the Arizona Open Meetings Act.[87]

The Arizona Attorney General's conclusion was based on a number of factors, including the numerous requirements imposed upon the school by the Arizona charter school law. Charter schools in Arizona must: (a) ensure that the school complies with the applicable federal laws, including laws relating to education of children with disabilities, state and local statutes and all rules relating to health, safety, civil rights, and insurance; (b) ensure that the school is nonsectarian in its programs, policies, employment practices, and operations; (c) provide a comprehensive program of instruction; and (d) design a method to measure pupil progress toward pupil outcomes adopted by the State Board of Education.[88] Additionally, charter schools are subject to the same financial requirements as school districts, including the uniform system of financial records, procurement rules and audit requirements. The AGG also considered public funding for charter schools and the statutory declaration that charter schools were political subdivisions of the state for purposes of participation in the Arizona State Retirement System.[89]

The NLRB administrative law judge applied the two-prong test enunciated in *NLRB v.*N*atural Gas Utility District*[90] to determine whether Wilson Academy was exempt as a political subdivision. Neither prong was satisfied. The first question was whether the Academy was created *directly* by the state, so as to constitute a department or administrative arm of the government. The ALJ found that charter schools were "created" by the act of incorporation by private actors, and therefore were not created directly by the state. The second inquiry concerned whether an individual or group of individuals involved in the Academy's administra-

tion was responsible to the "general electorate." The ALJ found no connection between the individuals who operated the Academy and public officials. He observed that "neither the general public nor any public official has any involvement whatever in the selection of the Academy's board of directors, corporate officers or managers."[91] The Arizona charter school law is substantially similar to Article 27A of the School Code governing charter schools in Illinois.

C. NLRB Action: To Cede, Decline or Enjoin

Section 10(a) of the NLRA empowers the NLRB to release its jurisdiction to a state agency in most industries provided that the state agency's governing statute is consistent with the NLRA.[92] In 1957, the Supreme Court addressed this issue in *Guss v. Utah Labor Relations Board*.[93] Guss, doing business as Photo Sound Products, manufactured photographic equipment for the United States Air Force pursuant to a contract that required Photo Sound to supply a specified number of its products to bases throughout the United States, including one in Utah. In 1953, the NLRB certified the United Steelworkers as exclusive bargaining representative of Photo Sound's employees. Subsequently, the union filed an unfair labor practice charge against Photo Sound, but the NLRB regional director declined jurisdiction because Photo Sound's operations were "predominately local in character."[94] The union then filed an identical unfair labor practice charge with the Utah Labor Relations Board.[95] Photo Sound argued that the NLRB had jurisdiction and therefore the Utah Board was without jurisdiction. The Utah Board disagreed. Eventually, the Utah Supreme Court affirmed a Utah Board decision finding that Photo Sound engaged in unfair labor practices.

The United State Supreme Court reversed because the NLRB had not entered into a cessation agreement with the Utah Board pursuant to section 10(a) of the NLRA. The Court held that the a state agency may assert jurisdiction only when the NLRB executes such an agreement. Thus, the Utah Board had no power to consider unfair labor practices that fell squarely within the jurisdiction of the NLRB, even though the NLRB declined to exercise its jurisdiction.[96] The Court observed that Congress provided the NLRB the option to cede its jurisdiction in "borderline industries (i.e. border line insofar as interstate commerce is concerned)," where the State agency's labor act conforms to national policy.

The NLRB has the power to prevent state courts and state labor boards from exercising jurisdiction over its mission and mandate. In *NLRB v. Nash-Finch Co.*,[97] the Supreme Court held that the NLRB has implied authority to obtain a federal injunction against a state court order regulating picketing at an employer's retail establishment.

In *NLRB v. California Horse Racing Board,*[98] the NLRB declined to exercise jurisdiction as it had in *Nash-Finch*. The union had better luck with the Racing Board, however. The NLRB filed a *Nash-Finch* action to enjoin enforcement of the Racing Board's order. The court refused to consider the union and the Racing Board's argument that the NLRB erred initially in declining jurisdiction, holding that the only inquiry in a *Nash-Finch* action is whether the NLRA preempts state regulation.[99] If it does, the court cannot consider any other issue arising therefrom, including whether the NLRB erred in declining to exercise jurisdiction.

In *Bud Antle, Inc. v. Barbosa*,[100] the court held that the the NLRA preempted the California Agricultural Labor Relations Board's jurisdiction over unfair labor practices filed by a union. In that case, however, it was the employer, not the NLRB, who sought the injunction. Thus clearly, a private party can bring an action in federal court that will accomplish the same result as a *Nash-Finch* action. It is, however, the dicta in this case that provides a foundation for the assertion of local labor board jurisdiction over the private providers of public educational services. The court noted that state action is not preempted "where the regulated conduct touches interests so deeply rooted in local feeling and responsibility that, in the absence of a compelling congressional direction, a court cannot infer that Congress deprived the States the power to act."[101] Because public education is deeply rooted in local feeling and responsibility, it may be inferred that Congress did not intend to deprive the states of authority to act over charter school labor relations.

V. Conclusion

The proponents of privatization will continue their efforts in the name of school choice. Under the No Child Left Behind Act, some school districts in Illinois may privatize some portion of their schools. In the case of Chicago Public Schools, the Renaissance 2010 program advances a model incorporating the utilization of contract schools and charter schools. Labor unions representing educational employees will continue their mission. In that regard, the use of the traditional private-sector doctrine of successorship may be invoked where the facts support it.

More likely than not, unions representing educational employees will appear before the NLRB to resolve disputes with charter schools and

other private sector providers of public educational services, absent an amendment to either the NLRA or the Illinois law. There are public policy considerations that must be addressed in light of this probability. The operation of public education systems has traditionally been a matter of local concern rather than of national concern. As noted in *Bud Antle, Inc. v. Barbosa*, "where the regulated conduct touches interests so deeply rooted in local feeling and responsibility . . . , in the absence of a compelling congressional direction, a court cannot infer that Congress deprived the States the power to act."[102] This exception to NLRB preemption could be the foundation for a specific amendment to section 10 of the NLRA to require the NLRB to cede its jurisdiction to a state agency that has jurisdiction over public education labor disputes.

In our society's attempt to improve standards for student achievement, teacher qualifications, and to create school choice, do we want labor disputes resolved at the federal level or at the state level? If having educational labor disputes resolved by the NLRB is an unintended consequence of the NCBA, it is clear that an amendment to the NLRA is warranted Additionally, Illinois lawmakers will have to consider modification of the definition of educational employer for the IELRB to have jurisdiction over private providers of public education.

♦

Notes

1.Executive Order 12607 § 2(a)(1), 53 Fed. Reg. 34,190 (Sept. 2, 1987).
2. *Id.* §§ 2(c)(1), (5).
3.See Erin M. Gee, Comment, *The Application of the Doctrine of Successorship to the Privatization of Government Services*, 32 CAL. W. L. REV. 167, 167 (1995).
4.*Id.* (citing Executive Order12,803, 57 Fed. Reg. 19,063 (1992)).
5. For example, Blackwater USA is a private military contractor offering training and security consulting. Its slogan is, "Providing a new generation of capability, skills and people to solve the spectrum of needs in the world of security." <http://www.blackwaterusa.com/securityconsulting/> (visited Dec. 6, 2005).
6. *See, e.g.* Jonathan B. Cleveland, *School Choice: American Elementary and Secondary Education Enter the "Adapt or Die" Environment of a Competitive Market Place*, 29 J. MARSHALL L.REV. 75 (1995).
7. See http://www.ncspe.org. (visited Dec. 8, 2005).
8. Lisa Snell, *School Choice Legislation is All the Rage in* 2005, SCHOOL REFORM NEWS, May 1, 2005, *at* <http://www.heartland.org/Articl.cfm?artId=16878>.
9. The No Child Left Behind Act of 2001, Pub. Law. No. 107-110, 115 Stat. 1425 (2002), codified at 20 U.S.C. § 6301 *et. seq.*
10. *See, e.g.*, the web site maintained by the Illinois State Board of Education at www.isbe.state.il.us.
11. Referred to as "local educational agency" under the NCLBA *See* 20 U.S.C. § 6301(4).
12. 20 U.S.C. § 6301.
13. *Id.* §§ 6301(2), (3).
14. *Id.* §§ 6314(b)(1)(C), 6319(a).
15. *Id.* § 7912.
16. *Id.* § 6311(b)(2)(f); 34 C.F.R. § 200.15.
17. 20 U.S.C. §§ 6319(a)(2)(A), 6319(a)(3).
18. *Id.* § 6311.
19. *Id.* § 6311(b)(2)(B).
20. *Id.* § 6311(b)(2)(C).
21. *Id.* § 6316(b).
22. *Id.* § 6316(b)(6).
23. *Id.* § 6316(b)(8)(B).
24. There are a number of for-profit educational service/management providers. In the industry, they are sometimes called "EMO" for education management organization. A well known organization is Edison Schools, Inc. Edison's web site states that it is "the nation's leading partner with public schools and school districts, focused on raising student achievement through its research-based school design, uniquely aligned assessment systems, interactive professional development, integrated use of technology and other proven program features." <http://www.edisonschools.com/home/home.cfm> (visited Dec. 5, 2005). It represents that it is achieving annual academic gains well above national norms, serves more than 330,000 public school students in over 25 states across the country and in the U.K. through its whole school management partnerships with districts and charter schools; summer, after-school, and supplemental educational services ("SES") programs. *Id.*
25. In the event that a state educational agency assumes the operation of a school district, it may or may not inherit a school district's collective bargaining obligations under a successorship analysis. The function of providing public education would however continue to be performed by a governmental agency. Clearly, disputes over refusals to bargain or other alleged unfair labor practices would be within the jurisdiction of a state labor board such as the IELRB.
26. 376 U.S. 543 (1964).
27. *Id.* at 548.
28. *Id.* at 551.
29. *Id.*
30. 406 U.S. 272 (1972).
31. *Id.* at 274.
32. *Id.* at 276.
33. *Id.* at 278-79, 287-88.
34. *Id.* at 277-78.
35. 414 U.S. 168 (1973).
36. *Id.* at 170.
37. *Id.* at 171
38. *Id.* at 184.
39. 417 U.S. 249 (1974).
40. *Id.* at 250.
41. *Id.* at 251-52.
42. *Id.* at 252-53.
43. *Id.*
44. *Id.* at 262-63.
45. 482 U.S. 27 (1987).
46. *Id.* at 30.
47. *Id.* at 43.
48. *Id.* at 44.
49. *Id.* at 46.
50. *Id.* at 47.
51. 13 PERI ¶1047 (IELRB ALJ1997).
52. *Id.*
53. *Id.*
54. *Id.*
55. *Id.*
56. 15 PERI ¶1046 (IELRB 1998).
57. 115 ILCS 5/1 (emphasis added).
58. 115 ILCS 5/2(a). Financial Oversight Panels created pursuant to Section 1A-8 of the School Code are specifically excluded from the definition of "educational employer." *Id.*
59. Article VII of the Illinois Constitution does not define the term "school district". Section 1 states that school districts are not a "unit of local government." Section 8 is titled "Powers and Officers of School Districts and Units of Local Government Other than Counties." It provides that these entities shall have only those powers granted by law.
60. 105 ILCS 5/1-3. This provision also refers to a "special charter district." This should not be confused with the term "charter school." A special charter district means any city, township or district organized into a school district, under a special Act or charter of the General Assembly or in which schools are now managed and operating within such unit in whole or in part under the terms of such special Act or charter.
61. 105 ILCS 5/2-3.25a ((Emphasis added).
62. P.A. 93-470 (effective Aug. 3, 2003).
63. 105 ILCS 230/5-1 defines "school district" to include a cooperative high school, which shall be considered a high school district for the purpose of calculating its grant index.
64. 2 PERI ¶ 1112 (IELRB Exec. Dir.1986).
65. *Galemb and. Loyola Univ. of Chicago*, 6 PERI ¶ 1157 (IELRB Exec. Dir. 1990)
66. *State of Illinois Departments of Central Management Services and Illinois Federation of Teachers Local 919*, 21 PERI ¶ 1 (IELRB 2004).
67. *Id.*
68. *Id.*
69. 105 ILCS 5/1-3.25(a)(7).
70. 105 ILCS 5/27A-5(a).
71. 105 ILCS 5/27A-5(b).
72. 105 ILCS 5/27A-5(c).

73. *Id.*
74. For details on the required contents of a charter school proposal, see 105 ILCS 5/27A-7.
75. 105 ILCS 5/27A-5(g) (emphasis added).
76. 105 ILCS 5/27A-5(g)(4).
77. 29 U.S.C. §§ 151 et. seq.
78. *Id.* § 152(2).
79. *See* Anand Vaishnav, *Some Charter Teachers Join Union*, Bost. Globe, Aug. 10, 2005.
80. *NLRB v. Natural Gas Utility Dist.*, 402 U.S. 600, 602-03 (1971).
81. *Id.* at 604-05.
82. *Id.* at 604.
83. *Id.* at 602.
84. *Id.*
85. 317 N.L.R.B. 1355 (1995).
86. Case No. 28-CA-16809, JD(SF)-53-02, 2002 WL 1880478 (NLRB ALJ July 31, 2002). In *Wilson Academy*, an unfair labor practice charge was filed based on disciplinary action, including discharge, taken against six employees, and by interrogating employees about their union or concerted activities.
87. *Id.*
88. *Id.* (citing Ariz. Op. Atty. Gen. No. 195-10 (Sept. 15, 1995)).
89. *Id.* (citing Ariz. Rev. Stat. §§ 15-183(E)(1)-(4), (6)-(7)).
90. *Id.*
91. *Id.* (citing *Shelby Sch. v. Az. State Bd. of Ed.*, 192 Ariz. 156 (1988), which explained that charter schools "operate as separate entities from the state, but are subject to the same agency supervision and oversight as any other contracting entity").
92. 29 U.S.C. § 160(a), provides in pertinent part:

> The Board is empowered . . . by agreement with any agency of any State or territory to cede to such agency jurisdiction over any cases in any industry (other than mining . . . and transportation except where predominately local in character) even though such cases may involve labor disputes affecting commerce, unless the provisions of the State . . . statute applicable to the determination of such cases by such agency is inconsistent with the corresponding provision of this Act or has received a construction inconsistent therewith.

93. 353 U.S. 1 (1957).
94. *Id.* at 5.
95. *Id.*
96. *Id.* at 13.
97. 404 U.S. 138, 148 (1971).
98. 940 F.2d 536 (9th Cir. 1991).
99. *Id.* at 542.
100. 45 F.3rd 1261 (9th Cir. 1995).
101. *See NLRB v. YMCA*, 192 F.3d 1111 (8th Cir. 1999) (NLRB assertion of jurisdiction over the provider of a Head Start program operated by a private entity under contract with a county governmental agency).
102. *Bud Antle, Inc.*, 45 F.3d at 1268. ◆

Recent Developments

Recent Developments is a regular feature of The Illinois Public Employee Relations Report. It highlights recent legal developments of interest to the public employment relations community. This issue focuses on developments under the two collective bargaining statutes.

IELRA Developments

Arbitration

In Y*archeski and Governors State Univ.*, No. 2005-CA-0044-C (IELRB 2005), the IELRB affirmed the Executive Director's recommended dismissal of charges that the university refused to comply with a binding arbitration award. The arbitration arose out of a grievance filed by Yarcheski contesting his non-renewal for the 2002-03 academic year. During the arbitration hearing, the university argued that Yarcheski's remedy be limited because he had misrepresented his employment experience when applying for employment. The union objected and the arbitrator reserved resolution and limited evidence and arguments on this issue. The arbitrator determined that the university violated Yarcheski's contractual rights by not evaluating his performance based upon his primary teaching duties and directed the University to reinstate Yarcheski and make him whole for salary and benefits lost for the 2002-03 academic year. The arbitrator retained jurisdiction for 60 days to resolve disputes regarding application of the remedy.

The university sought to reopen the record and argued that Yarcheski's misrepresentations were grounds to refuse to implement the arbitrator's award. The arbitrator informed the parties that unless material issues of fact were in dispute, he would issue a supplemental award; otherwise, he would convene an evidentiary hearing. The university and union then submitted letters and affidavits to the arbitrator.

The arbitrator issued a "Supplemental Opinion and Award on Remedy" which explained that the material facts described by the parties in their written submissions were undisputed. The arbitrator amended his earlier award by finding that the university did not have to reinstate Yarcheski because he had secured the job by questionable means. The amended award still provided for lost pay and benefits for 2002-03. Yarcheski argued that the original award was final and binding and that the supplemental award was invalid.

The IELRB found the supplemental award binding. The arbitrator did not rule on whether Yarcheski would have been properly dismissed for his alleged misrepresentation, but only considered the alleged misrepresentation with respect to the appropriate remedy. The parties stipulated that the issue of the appropriate remedy was before the arbitrator; thus, the supplemental award was rendered in accordance with the applicable procedure.

Moreover, there was no statutory provision with which the award conflicted. According to the IELRB, the award was "not patently repugnant" to the purposes and policies of the IELRA.

Lastly, the IELRB reasoned, arbitrators generally have the authority to "complete an arbitration that is not complete." The arbitrator's retained jurisdiction over "application of the remedy" included considering the effect of the alleged misrepresentation. The IELRB stated that the difference between the original and supplemental awards did not invalidate the supple-

mental award.

Confidential Employees

In *Community Consolidated Sch. Dist. 15 and Educational Support Personnel Ass'n, IEA-NEA,* Case No. 2005-UC-0001-C (IELRB 2005), the IELRB affirmed the Executive Director's recommended decision that two Class IV Secretaries in the Business Department were not confidential employees, and ordered that they remain in the bargaining unit.

Section 2(b) of the IELRA excludes confidential employees from the definition of "educational employee." Section 2(n) contains two tests for confidential status. Under section 2(n)(i), known as the "labor nexus test," a confidential employee is one who in the regular course of duties acts in a confidential capacity to persons who formulate, determine, and effectuate management policies with regard to labor relations. The IELRB upheld the Executive Director's determination that the business manager formulated but did not determine or effectuate management policies with regard to labor relations.

Under section 2(n)(ii), known as the "access test," a confidential employee is one who in the regular course of duties has access to information relating to the effectuation or review of the employer's collective bargaining policies. The IELRB recognized that the secretaries at issue assisted management in costing out bargaining proposals, but observed that the employer failed to establish that they had a role beyond compiling information or that they knew how the information would be used.

Contract Bar Rule

In *Unit Five Teaching Assistants Ass'n IEA-NEA and Local 362, Laborer's Int'l Union of N. Am. and Community Unit Sch. Dist. 5*, No. 2005-RC-0016-S (IELRB 2005), the IELRB held that association's representation petition was barred by the contract between Local 362 and the district. The association filed the petition on March 29, 2005, seeking to represent full-time and part-time maintenance and custodial employees who were already represented by Local 362. Local 362 and the district had reached tentative agreement on a new contract which was ratified by Local 362 members on April 2, 2005, and by the district's board on April 13.

The IELRB reaffirmed its decision in *Dupo Community Unit School Dist. 196*, No. 4 PERI ¶ 1117 (IELRB 1998), which held that a tentative agreement bars a representation period provided it is ratified within a reasonable time.

The IELRB held that to establish a bar, an agreement must contain substantial terms and conditions of employment so as to substantially stabilize labor relations between the parties and should chart the course of the bargaining relationship. The ALJ had concluded that the tentative agreement was incomplete with respect to retroactivity and health insurance. The IELRB ruled that the evidence demonstrated that retroactivity had always been a Local 362 proposal and was never an issue in negotiations, thus demonstrating that the agreement was always considered retroactive.

The evidence indicated that the parties had agreed to replace participation in the Central Laborer's Health and Welfare Plan with a private insurance group that Local 362 would select, with the district making a fixed contribution per employee. Although the local had yet to select the plan and details concerning a flexible spending arrangement and a stipend to be paid to employees whose premiums were less than the district's contribution were yet to be worked out, the IELRB concluded that the district and Local 362 had agreed on all aspects of health insurance that concerned the district. Consequently, sufficient details had been agreed upon to bar the representation petition

Discrimination

In *Chicago Teachers Union, Local* 1, and *Chicago Bd. of Educ.,* No. 2005-CA-0055-C (IELRB 2005), the IELRB held that the Chicago Board of Education (CBE) violated sections 14(a)(3) and 14(a)(1) of the IELRA when it refused to hire a teacher in order to avoid paying backpay that was awarded by an arbitrator.

On November 22, 1998, the teacher's teaching position was closed, and he was placed in the reassigned teachers' pool. He was honorably terminated when he failed to obtain another position within ten months after his reassignment. The union grieved and an arbitrator issued an award which stated that if the teacher secured a permanent position during the 2003-04 school year, the CBE must make him whole for salary and benefits lost as a result of his termination. In addition, CBE could not communicate this information to principals or other individuals who may be in a position to recommend the teacher into a permanent position.

Between August 6, 2003 and June 24, 2004, the teacher sent out 47 resumes but was unable to obtain a permanent position. Although he received several interviews, no one called him about a position. A consultant and agent of the CBE for finding and hiring teachers, told the teacher that he could not help him find employment because the CBE was unwilling to pay him backpay as awared in the arbitration.

The IELRB held that union established a prima facie case that the CBE violated sections (14(a)(3) and 14(a)(1). The IELRB determined that

the teacher engaged in union activity when he filed grievances, and the CBE was aware of the union activity. The IELRB found that the union also provided evidence that CBE failed to hire the teacher because of his union activity. The statement made by the consultant reflected CBE hostility toward the grievance arbitration. Moreover, the CBE's actions began when the teacher first sent out resumes, approximately one month after the arbitrator's award. Therefore the IELRB reversed the Executive Director's recommended dismissal of the complaint.

IPLRA Developments

Joint Employers

In *AFSCME Council 31 v. ISLRB*, 216 Ill. 2d 519 (2005), the Illinois Supreme Court held that the Illinois Department of Corrections (DOC) was not a joint employer of a private contractor's employees who provided medical care to DOC inmates. AFSCME, which represented employees of the contractor, Wexford Health Sources, Inc., argued that Wexford and the DOC were joint employers. Quoting *Orenic v. ISLRB*, 127 Ill. 2d 453, 537 N.E.2d 784 (1989), the court defined joint employers as "two or more employers exert significant control over the same employees – where . . . they share or codetermine those matters governing essential terms and conditions of employment." The court held that control must be actual, rather than theoretical.

The court observed that Wexford controlled recruitment and hiring of its employees. Although the DOC conducted background checks on Wexford employees, it conducted similar checks on all other persons with regular access to its prisons, as a matter of prison security rather than employment policy. Similarly, although DOC officials received copies of employees' requests for paid-time-off and sometimes made recommendations, their recommendations focused on prison operational needs and they lacked authority to approve or deny the requests. Although prison wardens could issue stop orders barring Wexford employees from their facilities, such orders could apply to other individuals and were issued for security and not employee disciplinary purposes. The ultimate decision whether to terminate an employee who was subject to a stop order rested with Wexford. Accordingly, the court concluded that DOC was not a joint employer and that the ISLRB had properly dismissed a representation petition and an unfair labor practice charge filed by AFSCME against DOC.

Subjects of Bargaining

In *University of Illinois v. ILRB*, 836 N.E.2d 187 (Ill. App. 4th Dist. 2005), the Fourth District Appellate Court reversed the State Panel and held that parking fees that the University of Illinois charged university peace officers were not a mandatory subject of bargaining. The court agreed with the State Panel that the fees were a condition of employment, but reversed the Panel's holding that they did not involve a matter of inherent managerial authority. The court found that the income from parking, the control of university land, equal treatment of all employees and staff, and the need to consider the impact of bargaining with sixteen other bargaining units were central to the employer's management control. The court also found that the parking budget and locations were intimately tied to the Employer's plan for the University.

The court concluded, without remanding to the ILRB, that the burdens of bargaining greatly outweighed the benefits. The existence, location and cost of parking were aspects of the employer's daily business and overall educational mission. If the employer were forced to bargain over the issue, it would adversely affect the employer's master plan for the university. The court issued a similar ruling under the IELRA in *University of Illinois v. IELRB*, 359 Ill. App. 3d 1116, 836 N.E.2d 199 (4th Dist. 2005). ♦

Further References

(compiled by Yoo-Seong Song, Librarian, Institute of Labor and Industrial Relations Library, University of Illinois at Urbana-Champaign)

Papke, Leslie E. PENSION PLAN CHOICE IN THE PUBLIC SECTOR: THE CASE OF MICHIGAN STATE EMPLOYEES. NATIONAL TAX JOURNAL, vol. 57, no. 2, June 2004. pp.329-339.

The author examines the effect of the pension reform in Michigan, which allowed the existing state employees to switch from the traditional defined benefit (DB) pension plan to a defined contribution (DC) plan. In 1997, the state of Michigan decided that the state would no longer offer the DB plan for new employees, and new state employees would be enrolled in an individual DC plan. The existing employees were allowed to move their fully vested DB benefits to a new DC plan. According to the survey conducted by the author, only 6 percent of the existing employees switched to the DC plan, which implied low demand for individual plans. The author also discovered that the key factor for switching to the portable DC plan was the ability to have a lump-sum amount to transfer, not salary or age. While this study is limited to one state the author believes that the findings of the survey provide valuable suggestions for possible

privatization of Social Security.

Mastracci, Sharon H. & Thompson, James R. NONSTANDARD WORK ARRANGEMENTS IN THE PUBLIC SECTOR. *REVIEW OF PUBLIC PERSONNEL ADMINISTRATION*, vol. 25, no. 4, December 2005. pp. 299-324.

The authors discuss a growing trend of having nonstandard work arrangements (NSWAs) in the private sector and argue that this trend will soon be prevalent in the public sector. The authors define NSWAs as "those other than full-time, permanent positions" such as "seasonal, part-time, and temporary agency work." The authors explain that NSWAs have received increasing attention mainly from worker rights and legal communities. The worker rights community is concerned that possibly a dual labor market exists, and the secondary labor market consists primarily of minority and women workers. The legal community has also paid close attention to NSWAs because of their employment rights and employer responsibilities towards NSWAs. The authors survey current NSWA activities in the public sector, and argue that this new phenomenon will be accepted widely in the public sector soon.

(Books and articles anotated in Further References are available on interlibary loan through ILLINET by contacting your local public library or system headquarters.)

***The Report* Subscription Form (Vol. 22, Numbers 1-4)**

The publication of *The Illinois Public Employee Relations Report* reflects a continuing effort by Chicago-Kent College of Law and the Institute of Labor and Industrial Relations to provide education services to labor relations professionals in Illinois. *The Report* is available by subscription through Chicago-Kent College of Law at a rate of $40.00 per calendar year for four issues. To subscribe to *IPER Report*, please complete this form and return it with a check or billing instructions to:

Institute for Law and the Workplace
Chicago-Kent College of Law
Illinois Institute of Technology
565 W. Adams Street,
Chicago IL 60661-3691

- ☐ Please start my subscription to *IPER Report*.
- ☐ Please bill me.
- ☐ Enclosed is my check payable to Chicago-Kent College of Law.
- ☐ We also accept Master Card, VISA and Discover Card;
  Please complete the following information:
  ☐ MasterCard ☐ VISA ☐ Discover Card

Card No.: Exp. Date

(Cardholder Signature REQUIRED)

Name: Title:

Organization: Tel: Date

(Please give address where the IPER Report should be mailed.)

The Illinois Public Employee Relations Report provides current, nonadversarial information to those involved or interested in employer-employee relations in public employment. The authors of bylined articles are responsible for the contents and for the opinions and conclusions expressed. Readers are encouraged to submit comments on the contents, and to contribute information on developments in public agencies or public-sector labor relations. The Illinois Institute of Technology and University of Illinois at Urbana-Champaign are affirmative action/equal opportunity institutions.

The Illinois Public Employee Relations Report - Published quarterly by The Institute of Labor and Industrial Relations University of Illinois at Urbana-Champaign and Chicago-Kent College of Law Illinois Institute of Technology 565 West Adams Street Chicago, Illinois 60661-3691
Faculty Editors: Peter Feuille and Martin H. Malin
Production Editor: Sharon Wyatt-Jordan
Student Editors: Judy Archer, Jeremy Edelson, Meagan C. LeGear and Evan M. Lison