

SB3570



96TH GENERAL ASSEMBLY

State of Illinois

2009 and 2010

SB3570

Introduced 2/10/2010, by Sen. Gary Forby

SYNOPSIS AS INTRODUCED:

115 ILCS 5/2

from Ch. 48, par. 1702

Amends the Illinois Educational Labor Relations Act. Deletes language that provides that the term "student" includes graduate assistants primarily performing duties that are pre-professional. Effective immediately.

LRB096 20571 MJR 36262 b

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Educational Labor Relations Act is
5 amended by changing Section 2 as follows:

6 (115 ILCS 5/2) (from Ch. 48, par. 1702)

7 Sec. 2. Definitions. As used in this Act:

8 (a) "Educational employer" or "employer" means the
9 governing body of a public school district, including the
10 governing body of a charter school established under Article
11 27A of the School Code or of a contract school or contract
12 turnaround school established under paragraph 30 of Section
13 34-18 of the School Code, combination of public school
14 districts, including the governing body of joint agreements of
15 any type formed by 2 or more school districts, public community
16 college district or State college or university, a
17 subcontractor of instructional services of a school district
18 (other than a school district organized under Article 34 of the
19 School Code), combination of school districts, charter school
20 established under Article 27A of the School Code, or contract
21 school or contract turnaround school established under
22 paragraph 30 of Section 34-18 of the School Code, and any State
23 agency whose major function is providing educational services.

1 "Educational employer" or "employer" does not include (1) a
2 Financial Oversight Panel created pursuant to Section 1A-8 of
3 the School Code due to a district violating a financial plan or
4 (2) an approved nonpublic special education facility that
5 contracts with a school district or combination of school
6 districts to provide special education services pursuant to
7 Section 14-7.02 of the School Code, but does include a School
8 Finance Authority created under Article 1E or 1F of the School
9 Code. The change made by this amendatory Act of the 96th
10 General Assembly to this paragraph (a) to make clear that the
11 governing body of a charter school is an "educational employer"
12 is declaratory of existing law.

13 (b) "Educational employee" or "employee" means any
14 individual, excluding supervisors, managerial, confidential,
15 short term employees, student, and part-time academic
16 employees of community colleges employed full or part time by
17 an educational employer, but shall not include elected
18 officials and appointees of the Governor with the advice and
19 consent of the Senate, firefighters as defined by subsection
20 (g-1) of Section 3 of the Illinois Public Labor Relations Act,
21 and peace officers employed by a State university. For the
22 purposes of this Act, part-time academic employees of community
23 colleges shall be defined as those employees who provide less
24 than 3 credit hours of instruction per academic semester. In
25 this subsection (b), the term "student" includes graduate
26 students who are research assistants primarily performing

1 duties that involve research ~~or graduate assistants primarily~~
2 ~~performing duties that are pre-professional~~, but excludes
3 graduate students who are teaching assistants primarily
4 performing duties that involve the delivery and support of
5 instruction and all other graduate assistants.

6 (c) "Employee organization" or "labor organization" means
7 an organization of any kind in which membership includes
8 educational employees, and which exists for the purpose, in
9 whole or in part, of dealing with employers concerning
10 grievances, employee-employer disputes, wages, rates of pay,
11 hours of employment, or conditions of work, but shall not
12 include any organization which practices discrimination in
13 membership because of race, color, creed, age, gender, national
14 origin or political affiliation.

15 (d) "Exclusive representative" means the labor
16 organization which has been designated by the Illinois
17 Educational Labor Relations Board as the representative of the
18 majority of educational employees in an appropriate unit, or
19 recognized by an educational employer prior to January 1, 1984
20 as the exclusive representative of the employees in an
21 appropriate unit or, after January 1, 1984, recognized by an
22 employer upon evidence that the employee organization has been
23 designated as the exclusive representative by a majority of the
24 employees in an appropriate unit.

25 (e) "Board" means the Illinois Educational Labor Relations
26 Board.

1 (f) "Regional Superintendent" means the regional
2 superintendent of schools provided for in Articles 3 and 3A of
3 The School Code.

4 (g) "Supervisor" means any individual having authority in
5 the interests of the employer to hire, transfer, suspend, lay
6 off, recall, promote, discharge, reward or discipline other
7 employees within the appropriate bargaining unit and adjust
8 their grievances, or to effectively recommend such action if
9 the exercise of such authority is not of a merely routine or
10 clerical nature but requires the use of independent judgment.
11 The term "supervisor" includes only those individuals who
12 devote a preponderance of their employment time to such
13 exercising authority.

14 (h) "Unfair labor practice" or "unfair practice" means any
15 practice prohibited by Section 14 of this Act.

16 (i) "Person" includes an individual, educational employee,
17 educational employer, legal representative, or employee
18 organization.

19 (j) "Wages" means salaries or other forms of compensation
20 for services rendered.

21 (k) "Professional employee" means, in the case of a public
22 community college, State college or university, State agency
23 whose major function is providing educational services, the
24 Illinois School for the Deaf, and the Illinois School for the
25 Visually Impaired, (1) any employee engaged in work (i)
26 predominantly intellectual and varied in character as opposed

1 to routine mental, manual, mechanical, or physical work; (ii)
2 involving the consistent exercise of discretion and judgment in
3 its performance; (iii) of such character that the output
4 produced or the result accomplished cannot be standardized in
5 relation to a given period of time; and (iv) requiring
6 knowledge of an advanced type in a field of science or learning
7 customarily acquired by a prolonged course of specialized
8 intellectual instruction and study in an institution of higher
9 learning or a hospital, as distinguished from a general
10 academic education or from an apprenticeship or from training
11 in the performance of routine mental, manual, or physical
12 processes; or (2) any employee, who (i) has completed the
13 courses of specialized intellectual instruction and study
14 described in clause (iv) of paragraph (1) of this subsection,
15 and (ii) is performing related work under the supervision of a
16 professional person to qualify himself or herself to become a
17 professional as defined in paragraph (1).

18 (1) "Professional employee" means, in the case of any
19 public school district, or combination of school districts
20 pursuant to joint agreement, any employee who has a certificate
21 issued under Article 21 or Section 34-83 of the School Code, as
22 now or hereafter amended.

23 (m) "Unit" or "bargaining unit" means any group of
24 employees for which an exclusive representative is selected.

25 (n) "Confidential employee" means an employee, who (i) in
26 the regular course of his or her duties, assists and acts in a

1 confidential capacity to persons who formulate, determine and
2 effectuate management policies with regard to labor relations
3 or who (ii) in the regular course of his or her duties has
4 access to information relating to the effectuation or review of
5 the employer's collective bargaining policies.

6 (o) "Managerial employee" means an individual who is
7 engaged predominantly in executive and management functions
8 and is charged with the responsibility of directing the
9 effectuation of such management policies and practices.

10 (p) "Craft employee" means a skilled journeyman, craft
11 person, and his or her apprentice or helper.

12 (q) "Short-term employee" is an employee who is employed
13 for less than 2 consecutive calendar quarters during a calendar
14 year and who does not have a reasonable expectation that he or
15 she will be rehired by the same employer for the same service
16 in a subsequent calendar year. Nothing in this subsection shall
17 affect the employee status of individuals who were covered by a
18 collective bargaining agreement on the effective date of this
19 amendatory Act of 1991.

20 (Source: P.A. 95-331, eff. 8-21-07; 96-104, eff. 1-1-10.)

21 Section 99. Effective date. This Act takes effect upon
22 becoming law.