



102ND GENERAL ASSEMBLY

State of Illinois

2021 and 2022

HB3496

Introduced 2/22/2021, by Rep. William Davis

SYNOPSIS AS INTRODUCED:

115 ILCS 5/2

from Ch. 48, par. 1702

Amends the Illinois Educational Labor Relations Act. Provides that a "supervisor" shall be considered an educational employee under the definition of "educational employee" unless the supervisor is also a managerial employee. Modifies the definition of "managerial employee" to mean an individual who has a significant role in the negotiation of collective bargaining agreements or who formulates and determines employer-wide management policies and practices (rather than an individual who is engaged predominantly in executive and management functions and is charged with the responsibility of directing the effectuation of such management policies and practices). Effective immediately.

LRB102 16016 NHT 21388 b

FISCAL NOTE ACT
MAY APPLY

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
16 community 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
19 the School Code), combination of school districts, charter
20 school established under Article 27A of the School Code, or
21 contract school or contract turnaround school established
22 under paragraph 30 of Section 34-18 of the School Code, an
23 Independent Authority created under Section 2-3.25f-5 of the

1 School Code, and any State agency whose major function is
2 providing educational services. "Educational employer" or
3 "employer" does not include (1) a Financial Oversight Panel
4 created pursuant to Section 1A-8 of the School Code due to a
5 district violating a financial plan or (2) an approved
6 nonpublic special education facility that contracts with a
7 school district or combination of school districts to provide
8 special education services pursuant to Section 14-7.02 of the
9 School Code, but does include a School Finance Authority
10 created under Article 1E or 1F of the School Code and a
11 Financial Oversight Panel created under Article 1B or 1H of
12 the School Code. The change made by this amendatory Act of the
13 96th General Assembly to this paragraph (a) to make clear that
14 the governing body of a charter school is an "educational
15 employer" is declaratory of existing law.

16 (b) "Educational employee" or "employee" means any
17 individual, excluding ~~supervisors~~, managerial, confidential,
18 short term employees, student, and part-time academic
19 employees of community colleges employed full or part time by
20 an educational employer, but shall not include elected
21 officials and appointees of the Governor with the advice and
22 consent of the Senate, firefighters as defined by subsection
23 (g-1) of Section 3 of the Illinois Public Labor Relations Act,
24 and peace officers employed by a State university. For the
25 purposes of this Act, part-time academic employees of
26 community colleges shall be defined as those employees who

1 provide less than 3 credit hours of instruction per academic
2 semester. In this subsection (b), the term "student" does not
3 include graduate students who are research assistants
4 primarily performing duties that involve research, graduate
5 assistants primarily performing duties that are
6 pre-professional, graduate students who are teaching
7 assistants primarily performing duties that involve the
8 delivery and support of instruction, or any other graduate
9 assistants. A supervisor shall be considered an educational
10 employee under this definition unless the supervisor is also a
11 managerial employee.

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

21 (d) "Exclusive representative" means the labor
22 organization which has been designated by the Illinois
23 Educational Labor Relations Board as the representative of the
24 majority of educational employees in an appropriate unit, or
25 recognized by an educational employer prior to January 1, 1984
26 as the exclusive representative of the employees in an

1 appropriate unit or, after January 1, 1984, recognized by an
2 employer upon evidence that the employee organization has been
3 designated as the exclusive representative by a majority of
4 the employees in an appropriate unit.

5 (e) "Board" means the Illinois Educational Labor Relations
6 Board.

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

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

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

22 (i) "Person" includes an individual, educational employee,
23 educational employer, legal representative, or employee
24 organization.

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

1 (k) "Professional employee" means, in the case of a public
2 community college, State college or university, State agency
3 whose major function is providing educational services, the
4 Illinois School for the Deaf, and the Illinois School for the
5 Visually Impaired, (1) any employee engaged in work (i)
6 predominantly intellectual and varied in character as opposed
7 to routine mental, manual, mechanical, or physical work; (ii)
8 involving the consistent exercise of discretion and judgment
9 in its performance; (iii) of such character that the output
10 produced or the result accomplished cannot be standardized in
11 relation to a given period of time; and (iv) requiring
12 knowledge of an advanced type in a field of science or learning
13 customarily acquired by a prolonged course of specialized
14 intellectual instruction and study in an institution of higher
15 learning or a hospital, as distinguished from a general
16 academic education or from an apprenticeship or from training
17 in the performance of routine mental, manual, or physical
18 processes; or (2) any employee, who (i) has completed the
19 courses of specialized intellectual instruction and study
20 described in clause (iv) of paragraph (1) of this subsection,
21 and (ii) is performing related work under the supervision of a
22 professional person to qualify himself or herself to become a
23 professional as defined in paragraph (1).

24 (1) "Professional employee" means, in the case of any
25 public school district, or combination of school districts
26 pursuant to joint agreement, any employee who has a

1 certificate issued under Article 21 or Section 34-83 of the
2 School Code, as now or hereafter amended.

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

5 (n) "Confidential employee" means an employee, who (i) in
6 the regular course of his or her duties, assists and acts in a
7 confidential capacity to persons who formulate, determine and
8 effectuate management policies with regard to labor relations
9 or who (ii) in the regular course of his or her duties has
10 access to information relating to the effectuation or review
11 of the employer's collective bargaining policies.

12 (o) "Managerial employee" means an individual who has a
13 significant role in the negotiation of collective bargaining
14 agreements or who formulates and determines employer-wide
15 management policies and practices. "Managerial employee"
16 includes a regional superintendent of schools or school
17 district superintendent provided for under Section 10-21.4 or
18 34-6 of the School Code is engaged predominantly in executive
19 and management functions and is charged with the
20 responsibility of directing the effectuation of such
21 management policies and practices.

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

24 (q) "Short-term employee" is an employee who is employed
25 for less than 2 consecutive calendar quarters during a
26 calendar year and who does not have a reasonable expectation

1 that he or she will be rehired by the same employer for the
2 same service in a subsequent calendar year. Nothing in this
3 subsection shall affect the employee status of individuals who
4 were covered by a collective bargaining agreement on the
5 effective date of this amendatory Act of 1991.

6 The changes made to this Section by this amendatory Act of
7 the 102nd General Assembly may not be construed to void or
8 change the powers and duties given to local school councils
9 under Section 34-2.3 of the School Code.

10 (Source: P.A. 101-380, eff. 1-1-20.)

11 Section 99. Effective date. This Act takes effect upon
12 becoming law.