

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. However,
25 with respect to an educational employer of a school district
26 organized under Article 34 of the School Code, a supervisor

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

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

23 (d) "Exclusive representative" means the labor
24 organization which has been designated by the Illinois
25 Educational Labor Relations Board as the representative of the
26 majority of educational employees in an appropriate unit, or

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

7 (e) "Board" means the Illinois Educational Labor Relations
8 Board.

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

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

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

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

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

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

26 (1) "Professional employee" means, in the case of any

1 public school district, or combination of school districts
2 pursuant to joint agreement, any employee who has a
3 certificate issued under Article 21 or Section 34-83 of the
4 School Code, as now or hereafter amended.

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

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

14 (o) "Managerial employee" means, with respect to an
15 educational employer other than an educational employer of a
16 school district organized under Article 34 of the School Code,
17 an individual who is engaged predominantly in executive and
18 management functions and is charged with the responsibility of
19 directing the effectuation of such management policies and
20 practices or, with respect to an educational employer of a
21 school district organized under Article 34 of the School Code,
22 an individual who has a significant role in the negotiation of
23 collective bargaining agreements or who formulates and
24 determines employer-wide management policies and practices.
25 "Managerial employee" includes a general superintendent of
26 schools provided for under Section 34-6 of the School Code.

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

3 (q) "Short-term employee" is an employee who is employed
4 for less than 2 consecutive calendar quarters during a
5 calendar year and who does not have a reasonable expectation
6 that he or she will be rehired by the same employer for the
7 same service in a subsequent calendar year. Nothing in this
8 subsection shall affect the employee status of individuals who
9 were covered by a collective bargaining agreement on the
10 effective date of this amendatory Act of 1991.

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

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

16 Section 99. Effective date. This Act takes effect upon
17 becoming law.