STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Illinois State Employees Association, Laborers' Local 2002; Illinois Nurses Association; Service Employees International Union; American Federation of State, County and Municipal Employees, Council 31; Illinois Federation of Teachers, Local 4408; Illinois Federation of Teachers, Local 919; and Conservation Police Lodge;	)	Case Nos.	S-CA-12-006 S-CA-12-018 S-CA-12-024 S-CA-12-104 S-CA-12-106 S-CA-12-108 S-CA-12-116
Charging Parties	)		
and	)		
State of Illinois, Department of Central Management Services,	)		
Respondent	)		

ORDER

On May 11, 2012 Administrative Law Judge Martin Kehoe, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge's Recommendation during the time allotted, and at its August 14, 2012 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

THEREFORE, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is binding on the parties to this proceeding.

Issued in Chicago, Illinois, this 15th day of August, 2012.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
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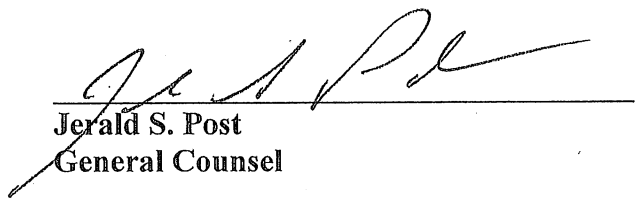

Jerald S. Post
General Counsel

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
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Illinois State Employees Association, Laborers' Local 2002; Illinois Nurses Association; Service Employees International Union; American Federation of State, County and Municipal Employees, Council 31; Illinois Federation of Teachers, Local 4408; Illinois Federation of Teachers, Local 919; and Conservation Police Lodge;	)	Case Nos. S-CA-12-006 S-CA-12-018 S-CA-12-024 S-CA-12-104 S-CA-12-106 S-CA-12-108 S-CA-12-116
Charging Parties	)	
and	)	
State of Illinois, Department of Central Management Services,	)	
Respondent	)	

DATE OF
MAILING: **August 15, 2012**

AFFIDAVIT OF SERVICE

I, Melissa McDermott, on oath, state that I have served the attached **General Counsel Order** issued in the above-captioned case on each of the parties listed herein below by depositing, before 5:00 p.m., on the date listed above, copies thereof in the United States mail pickup at 100 West Randolph Street, Chicago, Illinois, addressed as indicated and with postage prepaid for first class mail.

Kendra S. Doellman-Best
ISEA, Local 2002
2945 Stanton Ave., Ste. A
Springfield, IL 62703

Tyson B. Roan
SEIU Local 73
300 South Ashland, Suite 400
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Policemen's Benevolent Labor Committee
435 W. Washington St.
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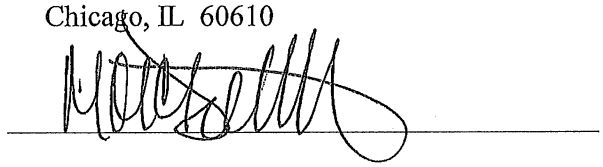
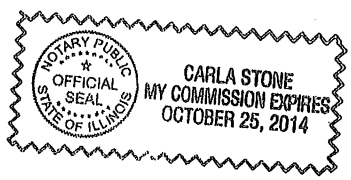


SUBSCRIBED and **SWORN** to
before me, **August 15, 2012**

NOTARY PUBLIC



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Illinois State Employees Association, Laborers' Local 2002; Illinois Nurses Association; Service Employees International Union; American Federation of State, County and Municipal Employees, Council 31; Illinois Federation of Teachers, Local 4408; Illinois Federation of Teachers, Local 919; and Conservation Police Lodge;	)	Case Nos.	S-CA-12-006 S-CA-12-018 S-CA-12-024 S-CA-12-104 S-CA-12-106 S-CA-12-108 S-CA-12-116
Charging Parties	)		
and	)		
State of Illinois, Department of Central Management Services,	)		
Respondent	)		

ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

As captioned above, the instant matter concerns Case Nos. S-CA-12-006, S-CA-12-018, S-CA-12-024, S-CA-12-104, S-CA-12-106, S-CA-12-108, and S-CA-12-116. All seven cases have been consolidated and assigned to the undersigned Administrative Law Judge. In each of these cases, a union charging party filed an unfair labor practice charge with the State Panel of the Illinois Labor Relations Board (Board), alleging that the State of Illinois, Department of Central Management Services (Respondent) engaged in unfair labor practices within the meaning of Sections 10(a)(4) and (1) of the Illinois Public Labor Relations Act, 5 ILCS 315 (2010) as amended (Act). Subsequently, each charge was investigated in accordance with Section 11 of the Act and the Rules and Regulations of the Board, 80 Ill. Admin. Code, Parts 1200 through 1240 (Rules).

On November 17, 2011, the Board's Executive Director issued complaints for hearing and orders consolidating cases for Case Nos. S-CA-12-006, S-CA-12-018, and S-CA-12-024. On December 2, 2011, the Respondent filed answers to the complaints issued for Case Nos. S-CA-12-006, S-CA-12-018, and S-CA-12-024 and, on December 12, 2011, the Respondent filed a motion to defer these three consolidated cases to arbitration. On December 20, 2011, the Illinois Nurses Association (INA) filed a response in opposition to the Respondent's motion to defer to arbitration. On December 21, 2011, the Service Employees International Union (SEIU) filed its own response to the Respondent's motion to defer to arbitration.[1]

On February 28, 2012, complaints for hearing and orders consolidating cases were issued for Case Nos. S-CA-12-104, S-CA-12-106, S-CA-12-108, and S-CA-12-116. As guided by the Executive Director, these four cases were consolidated with Case Nos. S-CA-12-006, S-CA-12-018, and S-CA-12-024. On March 14, 2012, the Respondent filed separate answers and affirmative defenses to the complaints for hearing issued in Case Nos. S-CA-12-104, S-CA-12-106, S-CA-12-108, and S-CA-12-116. On March 15, 2012, the Respondent filed a motion for deferral and to dismiss Case Nos. S-CA-12-006, S-CA-12-108, S-CA-12-024, S-CA-12-106, S-CA-12-108, and S-CA-12-116 as well as a separate motion for deferral and to dismiss Case No. S-CA-12-104.

[1] On January 6, 2012, the Respondent filed a reply in support of its motion to defer Case Nos. S-CA-12-006, S-CA-12-018, and S-CA-12-024 to arbitration. In response, on January 10, 2012, SEIU filed a motion to strike the Respondent's January 6, 2012 reply. In its January 10, 2012 motion, SEIU correctly notes that, according to Section 1200.45(b)(4) of the Rules, motions to defer an unfair labor practice matter to arbitration must be made in accordance with Section 1220.65 of the Rules, which permits the filing of motions to defer and responses thereto. As observed by SEIU, this Section does not, however, provide for replies. Moreover, SEIU accurately notes that the Respondent did not seek leave of the undersigned Administrative Law Judge to file its reply or otherwise grant a variance from the Rules pursuant to Section 1200.160 of the Rules. Thus, SEIU requests that I, the undersigned, disregard the Respondent's reply in support of its motion to defer. An examination of the Rules generally appears to support SEIU's argument. Accordingly, I hereby strike the Respondent's January 6, 2012 reply in support of its earlier motion to defer.

On March 20, 2012, the Conservation Police Lodge (CPL) filed a denial of the Respondent's affirmative defenses. On March 23, 2012, SEIU filed a response to the Respondent's motion for deferral and to dismiss.[2] On March 27, 2012, the American Federation of State, County and Municipal Employees, Council 31 (AFSCME) filed a response to the Respondent's motion for deferral and to dismiss. On that same date, the Illinois Federation of Teachers (IFT), Locals 4408 and 919 filed a joint response to the Respondent's motion for deferral and to dismiss. On April 13, 2012, CPL filed a response to the Respondent's motion for deferral and to dismiss. On April 25, 2012, the Illinois State Employees' Association, Laborers Local 2002 (ISEA) filed its own response to the Respondent's motion for deferral and to dismiss.

I. DISCUSSION AND ANALYSIS

The central issue to be addressed concerns whether to grant the Respondent's various motions to defer the processing of complaints to the parties' contractual grievance and arbitration procedures.[3] The decision of whether to defer an unfair labor practice complaint to arbitration is governed, in part, by Section 11(i) of the Act. Pursuant to Section 11(i), if an alleged unfair labor practice involves the interpretation or application of a collective bargaining agreement and said agreement contains a grievance procedure with binding arbitration as its terminal step, the

[2] In its March 23, 2012 response to the Respondent's March 15, 2012 motion for deferral and to dismiss, SEIU notes that, according to Section 1220.65(b) of the Rules, motions to defer may be filed either prior to the issuance of a complaint or within 25 days of the issuance of a complaint for hearing. SEIU's complaint for hearing (Case No. S-CA-12-024) was issued on November 17, 2011. In relevant part, SEIU argues that, insofar as the Respondent seeks to file its March 15, 2012 motion to defer anew on the matter involving SEIU or to the extent that its motion to defer contains facts or arguments different from those the Respondent originally put forth in its December 12, 2011 motion to defer, those facts and arguments should be disregarded. A strict reading of the Rules appears to support SEIU's arguments. To this extent, I hereby disregard the facts and arguments that were presented by the Respondent in an untimely manner.

[3] According to Section 1220.65(d) of the Rules, if a motion to defer the resolution of an unfair labor practice charge is made after the issuance of a complaint for hearing, the Administrative Judge shall rule on that motion in accordance with Section 1200.45 of the Rules. I believe that a hearing on the deferral issue is not warranted and will, instead, administratively decide the initial question of deferral. See City of Mt. Vernon, 4 PERI ¶2011 (IL SLRB 1988). Parties may appeal the Administrative Law Judge's ruling on the motion to defer in accordance with Section 1200.135(b) of the Rules.

Board may defer the resolution of such dispute to the grievance and arbitration procedure contained in said agreement. In accordance with this Section, the Board has adopted a discretionary policy limiting the circumstances under which the Board will determine the merits of an unfair labor practice charge which also may be a contract violation. State of Illinois, Department of Central Management Services (Department of Human Services), 19 PERI ¶114 (IL LRB-SP 2003).

Over time, the Board has adopted standards for exercising its discretionary deferral authority. Traditionally, the Board makes use of the deferral doctrines of the National Labor Relations Board (NLRB), which has a well-established policy of deferring cases to arbitration at various stages of the proceedings. County of Cook and Sheriff of Cook County, 6 PERI ¶3019 (IL LLRB 1990); Chicago Transit Authority, 1 PERI ¶3004 (IL LLRB 1985). In accordance with the NLRB's policy, the Board has generally recognized three types of arbitral deferral, reflecting three different factual scenarios: (1) "Collyer deferral," which concerns pre-arbitral deferral; (2) "Dubo deferral," which concerns deferral to pending arbitration; and (3) "Spielberg deferral," which concerns post-arbitral deferral. State of Illinois, Department of Central Management Services (Department of Human Services), 19 PERI ¶114; City of Mt. Vernon, 4 PERI ¶2006 (IL SLRB 1988); Collyer Insulated Wire, 192 NLRB 837 (1971); Dubo Manufacturing Corporation, 142 NLRB 431 (1963); Spielberg Manufacturing Company, 112 NLRB 1080 (1955). In all these lead cases, there is a general recognition that the bargaining process is best served by encouraging parties to resolve their disputes, when possible, through their negotiated grievance arbitration procedures. City of East Peoria, 24 PERI ¶91 (IL LRB-SP 2008).[4]

[4] This policy is also embodied in Section 8 of the Act, which mandates the inclusion of a grievance and arbitration procedure unless the parties expressly agree otherwise. See City of Mt. Vernon, 4 PERI ¶2011.

Deferral to pending arbitration, or "Dubo deferral," arises when the parties have initiated the arbitration process and a party requests that the Board hold the unfair labor practice proceeding in abeyance until the arbitration award issues. In such instances, the Board will defer the processing of an unfair labor practice charge if (1) the parties have already voluntarily submitted their dispute to their agreed-upon grievance arbitration procedure, (2) that procedure culminates in final and binding arbitration, and (3) there exists a reasonable chance that the arbitration process will resolve the dispute. State of Illinois, Department of Central Management Services (Department of Human Services), 19 PERI ¶114; PACE Northwest Division, 10 PERI ¶2023 (IL SLRB 1994); City of Mt. Vernon, 4 PERI ¶2006 (1988); Dubo Manufacturing Corporation, 142 NLRB 431.

The filings associated with the consolidated cases indicate that the various charging parties have filed grievances and demands for arbitration of their disputes which are "presently pending." To the extent that these case's complaints involve allegations which the parties have in fact already voluntarily submitted to their final and binding contractual grievance and arbitration procedures, the instant circumstances satisfy the first and second prongs of the Dubo deferral test. Concerning the third and final prong, I have found no obvious reasons to believe that there is not at least a "reasonable chance" that the parties' arbitration processes will resolve their contractual disputes as well as the related unfair labor practice complaints. Assuming, for example, that an arbitrator for a particular case does determine whether the Respondent's actions were justified under the terms of the relevant collective bargaining agreement, that arbitrator could resolve questions which may have a bearing on a resolution of the associated pending unfair labor practice complaint and may indeed resolve the entire matter for the parties involved, making further proceedings unnecessary. See City of Peoria, 14 PERI ¶2024 (IL SLRB 1998);

PACE Northwest Division, 10 PERI ¶2023; City of Chicago, 3 PERI ¶3007 (IL LLRB 1986). To this extent, the circumstances of the consolidated cases appear to satisfy the three prongs of the Dubo deferral test, thereby making deferral most appropriate in this instance.

The charging parties' arguments suggesting that I should decline to defer their complaints at this time are less than compelling. Under similar circumstances, a charging party might reasonably oppose arbitral deferral because the matter, according to its view, involves a number of issues appropriately reserved for Board determination. Indeed, in general, there may be independent, non-contractual, or statutory subjects over which an arbitrator has no authority. See Alexander v. Gardner-Denver Company, 415 U.S. 36, 52, 94 S. Ct. 1011, 1022 (1974), United Steelworkers of America v. Enterprise Wheel and Car Corp., 363 U.S. 593, 597, 80 S. Ct. 1358, 1361 (1960). However, as I view the instant matter, for a charging party to successfully prove its statutory allegation of unlawful repudiation, there must first be an initial interpretation of the Respondent's contractual rights in order to determine whether it in fact breached a contractual provision. Deferring a dispute at this time provides the parties, and the Board, with a relevant piece of information needed to proceed with the complaint. See City of Mt. Vernon, 4 PERI ¶2011 (IL SLRB 1988).

Though the Respondent's answers and motions for deferral do raise a wide variety of seemingly external, non-contractual issues (such as those concerning the Illinois Constitution or Section 21 of the Act, for example), the Respondent generally appears to view these issues, inter alia, as elements that are necessarily included in its collective bargaining agreements and, according to the Respondent, should therefore be considered by an arbitrator. While the parties may not dispute the meaning of a range of other important contractual provisions, crucially, the remaining question of whether or not these collective bargaining agreements do incorporate the

disputed elements can be characterized as a matter of contract interpretation. Traditionally, such an interpretation is a matter within the particular expertise of an arbitrator. See State of Illinois, Department of Central Management Services (Department of Human Services), 19 PERI ¶114; City of Chicago (Department of Aging), 10 PERI ¶3025 (IL LLRB 1994); PACE Northwest Division, 10 PERI ¶2023; City of Chicago, 10 PERI ¶3001 (IL LLRB 1993); City of Chicago, Chicago Fire Department, 6 PERI ¶3018 (IL LLRB 1990); City of Mt. Vernon, 4 PERI ¶2006; Chicago Transit Authority, 1 PERI ¶3004 (IL LLRB 1985); Dubo Manufacturing Corporation, 142 NLRB 431.

In County of Cook and Sheriff of Cook County, 6 PERI ¶3019, the Board affirmed a hearing officer's decision to decline to defer a dispute to arbitration. However, significantly, in that case, the respondent did not raise the issue of deferral until after the hearing had commenced. Under the instant circumstances, deferral may still help to avoid the costs, in terms of both time and money, of conducting an unfair labor practice hearing which the parties' own grievance and arbitration processes may ultimately render unnecessary. See Village of Oak Park, 18 PERI ¶2019 (IL LRB-SP 2002); PACE Northwest Division, 10 PERI ¶2023; North Shore Sanitary District, 9 PERI ¶2014 (IL SLRB 1993). Further, concerning that hearing officer's additional determination that an arbitrator would not have disposed of all unfair labor practice issues, I find the instant matter distinguishable because I find that an important question of contract interpretation is at the heart of the instant dispute. Moreover, at this point in the case, I cannot yet conclude that, like the employer at issue in Convergence Communications, Inc., 339 NLRB 408 (2003), for example, the Respondent has firmly indicated that it is simply not bound by any collective bargaining agreement's terms or otherwise sought to terminate its relationship with a union in a way that would make deferral inappropriate at this procedural stage. Rather,

the Respondent very clearly admits that it is bound by its collective bargaining agreements, but provides that such agreements are subject to additional, incorporated conditions.

I also recognize that a charging party could argue that the remedies available to an arbitrator may not appropriately address the Respondent's alleged unfair labor practices. See City of Kewanee, 23 PERI ¶110 (IL LRB-SP 2007); University of Illinois, 23 PERI ¶86 (IL ELRB 2007). Indeed, under these circumstances, whether or not arbitration is able to completely address or remedy the Respondent's alleged unfair labor practices (including the various charges of repudiation, for example) in each case remains to be seen. See City of Chicago, Department of Law, 3 PERI ¶3026 (IL LLRB 1987). However, in cases that raise contractual and collateral issues arising out of the same factual context, the Board will often refer a matter to arbitration but nevertheless retain jurisdiction and hold its unfair labor practice proceedings in abeyance in order to monitor the progress of a dispute and determine, upon request, whether an arbitrator's award addressed the issues in the complaint to ensure that all of the statutory rights of the charging party and/or public employees are being protected or to reconcile an award with the Act. See Chicago Transit Authority, 17 PERI ¶3019 (IL LLRB 2001); PACE Northwest Division, 10 PERI ¶2023; City of Mt. Vernon, 4 PERI ¶2006; Chicago Transit Authority, 1 PERI ¶3004; Chicago Board of Education, 25 PERI ¶132 (IL ELRB 2009). Consistent with this common practice, although I am recommending deferral of these cases to arbitration through this Recommended Decision and Order, I specifically reserve such authority in this instance. I find that this approach effectuates the purposes of the Act and will best preserve the rights of the parties involved without undue interference by the Board in the operation of the parties' grievance procedures and arbitration processes.

A charging party could also argue, for example, that the Executive Director's consolidation of these charges should serve as proof that these cases should be decided together in one forum. Under these circumstances, one could indeed reasonably imagine a scenario in which different arbitrators came to separate and conflicting results. One might also consider the overall judicial economy that might be promoted should these issues be resolved in a single proceeding. However, at this time, I do not find these considerations to be determinative for this narrow issue.

Though Section 1200.105 of the Rules indicates that the Board shall consolidate two or more unfair labor practice cases when certain conditions are met, the Rules do not appear to strictly address whether or not such cases may nonetheless be deferred. On the other hand, Board precedent consistently indicates that deferral is a permissive mechanism to be used in the Board's discretion. City of Chicago, 10 PERI ¶3001. Moreover, as suggested by the foregoing analysis, the Board's discretionary deferral policy generally seeks to accommodate the remaining considerations provided by Section 1200.105 of the Rules (i.e., the protection of parties' rights and the efficient and expeditious resolution of cases). In addition, deferral does not necessarily preclude a consolidated hearing in this instance.

Case No. S-CA-12-104

AFSCME asserts that deferral would be improper in Case No. S-CA-12-104 because the Respondent has refused to comply with the arbitration award that was rendered by Arbitrator Edwin H. Benn on July 19, 2011. In support of its assertion, AFSCME has supplied a copy of the memorandum the Respondent submitted to the Circuit Court of Cook County in support of a motion to vacate this arbitration award. According to AFSCME, because of the arguments made

by the Respondent in this memorandum, it is proper for the Board to proceed with the instant case "so that it can construe the statutes over which it has primary jurisdiction."

At the same time, the Respondent asserts that the circumstances of Case No. S-CA-12-104 uniquely involve post-arbitral deferral. Post-arbitral deferral, or "Spielberg deferral," arises when an arbitration award has already issued and a party requests that the Board recognize the award as dispositive of the issues raised in a related unfair labor practice charge. State of Illinois, Department of Central Management Services (Department of Human Services), 19 PERI ¶114; Spielberg Manufacturing Company, 112 NLRB 1080. The Board, like the NLRB, will generally defer to an existing arbitration award when it has been determined: (1) that the proceedings have been fair and regular; (2) that all parties had agreed to be bound by the decision; and (3) that the decision of the arbitration award is not clearly repugnant to the purposes and policies of the Act. See City of Chicago, 20 PERI ¶17 (IL LRB-LP 2003); Chicago Transit Authority, 16 PERI ¶3010 (Il LLRB 1999); City of Chicago, 10 PERI ¶3001; City of Chicago, 4 PERI ¶3030 (IL LLRB 1988); City of Mt. Vernon, 4 PERI ¶2006; Spielberg Manufacturing Company, 112 NLRB 1080.

Thus, on first examination, it would appear that this analysis must address the various prongs of the Spielberg deferral test. However, I do not believe that conducting such an analysis at this time would promote administrative efficiency, foster judicial economy, properly address the parties' interests, or otherwise comport with the Board's objectives. As I view the present circumstances, a significant collateral procedural issue still remains that must first be addressed before the Board can appropriately process this particular case.

Section 8 of the Act specifically provides that the grievance and arbitration provisions of any collective bargaining agreement shall be subject to the Illinois Uniform Arbitration Act, 710

ILCS 5 (2010) as amended. The Uniform Arbitration Act provides, inter alia, mechanisms to vacate or enforce an arbitration award through the circuit court. In this way, the Act intuitively recognizes and accommodates the larger procedural processes in play in this instance. Here, by filing a motion to vacate an award, the Respondent appears to have exercised a recognized mechanism. Moreover, AFSCME, in accordance with the Uniform Arbitration Act, appears to have filed a counterclaim seeking to enforce the arbitration award. Thus, this arbitral determination is, in reality, still "pending."

Before I can appropriately analyze, for example, whether the decision of such an arbitration award is repugnant to the purposes and policies of the Act, the ultimate status or disposition of this award must be determined. Furthermore, comity, judicial economy, and administrative efficiency would not be served by a resumption of this case after an adjournment or by wasteful, duplicative litigation between the parties. Accordingly, I decline to conduct an analysis in a manner consistent with Spielberg deferral at this time. Rather, consistent with the principles of the Board's deferral procedures but by way of a sua sponte stay order specific to Case No. S-CA-12-104, I hereby retain the Board's jurisdiction over this effectively pending matter and hold the matter in abeyance until the parties to Case No. S-CA-12-104 fully exhaust those mechanisms authorized by the Uniform Arbitration Act. If AFSCME still believes that the Board should review the statutory issues raised by its complaint upon termination of this collateral procedure, it may simply submit a petition in accordance with this stay order and the procedure set out below.

Respondent's Arguments for Outright Dismissal

In its affirmative defenses, the Respondent consistently argues that these cases should be deferred to arbitration. Nonetheless, shortly after its affirmative defenses, the Respondent

regularly concludes that the Board should dismiss each case in its entirety. In addition, later filings, which include deferral-related arguments, are characterized by the Respondent as motions for deferral and to dismiss. However, on the whole, the Respondent has provided no convincing Board rule or clear precedent in support of this particular position. Furthermore, concerning this issue, a reading of Section 1220.50 of the Rules suggests that the Administrative Law Judge assigned to a particular case has no authority to dismiss a complaint prior to a hearing unless the charging party fails to appear. Despite the Respondent's arguments to the contrary, it appears that dismissals, at this point in the procedure, are generally inappropriate as a matter of policy. For the reasons outlined above, I have determined that the Board will retain jurisdiction for possible further consideration at a later date. Accordingly, this aspect of the Respondent's filings is hereby denied.

II. ORDER

IT IS HEREBY ORDERED that the processing of the complaints for hearing in Case Nos. S-CA-12-006, S-CA-12-018, S-CA-12-024, S-CA-12-104, S-CA-12-106, S-CA-12-108, and S-CA-12-116 will be held in abeyance until the parties have fully completed the parties' pending grievance and arbitration processes. Within 30 days after the ultimate termination of the parties' contractual grievance and arbitration procedures, a party may notify the Board of this termination and request that the Board review the award to determine whether to defer to the arbitrator's disposition. A party's request should contain a copy of the relevant award along with a detailed statement of the facts and circumstances bearing on whether the arbitral proceedings were fair and regular and whether the award is consistent with the purposes and policies of the Act. If a party fails to make such a request within the time specified, the Board may dismiss the

complaint for hearing, upon request of another party or on the Board's own motion. It is also ordered that the parties to these cases inform the Board of any significant delay in their arbitration processes or of any resolution of their grievances prior to issuance of an arbitrator's award.

In reviewing an arbitrator's award, the Board will apply the standards consistent with those enunciated in Spielberg Manufacturing Company, 112 NLRB 1080, and related cases; e.g., that the arbitration proceedings were fair and regular, that the parties acknowledge they are bound, and that the result is not fundamentally at odds with or repugnant to the Act. The Board will determine whether the arbitrator's factual findings and contractual interpretations allow the Board to resolve any remaining statutory issues. If the arbitrator's factual findings and interpretations of the contract allow the Board to resolve the remaining statutory issues, the Board will defer to the award, but resolve the statutory issues de novo. If not, the Board will issue a notice of hearing for the relevant case or cases so that a record may be established that will enable the resolution of the remaining statutory issues.

III. EXCEPTIONS

Pursuant to Section 1200.135 of the Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 10 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within 5 days from the filing of cross-exceptions, parties may file cross-responses to the cross-

exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed with the Board's General Counsel at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, and served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

Issued at Springfield, Illinois, this 11th day of May, 2012.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL

Martin Kehoe

Martin Kehoe
Administrative Law Judge