

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

International Union of Operating Engineers,)	
Local 150,)	
)	
Charging Party)	
)	
and)	Case No. S-CA-14-136
)	
County of Mercer and Sheriff of Mercer)	
County,)	
)	
Respondent)	

ORDER

On December 22, 2014 Administrative Law Judge Sarah R. Kerley, 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 February 10, 2015 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the parties have waived their exceptions to the Administrative Law Judge's Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

Issued in Chicago, Illinois, this 10th day of February, 2015.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**



**Jerald S. Post
General Counsel**

NOTICE TO EMPLOYEES

FROM THE ILLINOIS LABOR RELATIONS BOARD

S-CA-14-136 Addendum

The Illinois Labor Relations Board, State Panel is charged with protecting rights established under the Illinois Public Labor Relations Act, 5 ILCS 315 (2012). In the course of fulfilling this duty, the parties stipulated to the record in this case. Upon that record, the Board found that the County of Mercer has violated Section 10(a)(4) and (1) of the Act and has ordered us to post this Notice. We hereby notify you that the Illinois Public Labor Relations Act (Act) gives you, as an employee, these rights:

- To engage in self-organization
- To form, join or assist unions
- To bargain collectively through a representative of your own choosing
- To act together with other employees to bargain collectively or for other mutual aid and protection
- To refrain from these activities

The Act further imposes upon a public employer and the exclusive representative of a bargaining unit the duty to bargain collectively.

Accordingly, we assure you that:

WE WILL cease and desist from:

- a. Adopting a Personnel Manual affecting the terms and conditions of employment for bargaining unit members without bargaining with the exclusive representative;
- b. Failing and refusing to bargain in good faith with the International Union of Operating Engineers, Local 150 as to changes to the terms and conditions of employment; and
- c. In any like or related manner, interfering with, restraining, or coercing employees in the exercise of the rights guaranteed by the Act.

WE WILL, rescind the Mercer County Personnel Manual distributed to bargaining unit employees on or about April 28, 2014.

DATE _____

County of Mercer

ILLINOIS LABOR RELATIONS BOARD

One Natural Resources Way, First Floor

Springfield, Illinois 62702

(217) 785-3155

160 North LaSalle Street, Suite S-400

Chicago, Illinois 60601-3103

(312) 793-6400

**THIS IS AN OFFICIAL GOVERNMENT NOTICE
AND MUST NOT BE DEFACED.**

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ADMINISTRATIVE LAW JUDGE'S RECOMMENDED DECISION AND ORDER

On May 8, 2014, Charging Party International Union of Operating Engineers, Local 150, AFL-CIO (Charging Party), filed an unfair labor practice charge alleging that the Respondent County of Mercer and Sheriff of Mercer County (collectively, Respondent) violated the Illinois Public Labor Relations Act (Act) when it adopted a Personnel Manual without notice or bargaining with the Charging Party. On September 24, 2014, the Executive Director of the Illinois Labor Relations Board (ILRB or Board) issued a complaint alleging that the Respondent violated Sections 10(a)(4) and (1) of the Act. The Respondent filed an answer on October 8, 2014.

On October 14, 2014, the parties participated in a telephone conference with the undersigned administrative law judge for purposes of scheduling a hearing on the pending unfair labor practice charges, ILRB Case Nos. S-CB-14-006, S-CA-14-136, and S-CA-14-150. The parties ultimately scheduled a hearing for all three pending cases for December 3, 2014. In lieu of hearing in the present case, the parties agreed to issuing a Recommended Decision and Order on a stipulated record.¹

I. FINDINGS OF FACT

The parties stipulate and I find as follows:

1. At all times material, the Respondent has been a public employer within the meaning of Section 3(o) of the Act.

¹ A copy of the signed Stipulated Record is attached hereto as Appendix A.

2. At all times material, the Respondent has been subject to the jurisdiction of the State Panel of the Board, pursuant to Section 5(a-5) of the Act.
3. At all times material, Respondent has been subject to the Act, pursuant to Section 20(b) thereof.
4. At all times material, Charging Party has been a labor organization within the meaning of Section 3(i) of the Act.
5. At all times material, the Charging Party represents multiple bargaining units (Units) comprised of Respondent's employees in the Mercer County Highway Department, County of Mercer Courthouse Division and the Sheriff's Department.
6. At all times material, the Charging Party and the Respondent have been parties to collective bargaining agreements (CBAs) for the Units, each having a term of December 1, 2009 through November 30, 2013.
7. On or about March 5, 2014, the Charging Party and the Respondent commenced negotiations for a successor CBA for the Unit comprised of employees in the Highway Department.
8. On or about April 1, 2014, Respondent adopted the Mercer County Personnel Manual (Manual).
9. The Manual changed terms and conditions of employment for employees in the Units, and thereby changed mandatory subjects of bargaining.
10. On or about April 28, 2014, Respondent distributed the Manual to Unit employees and required employees to sign and acknowledge the policies set forth in the Manual.
11. Though the Manual was distributed to bargaining unit members, no bargaining unit members were subject to discipline under the provisions of the Manual.
12. Respondent created, adopted, and distributed the Manual without providing Charging Party notice or an opportunity to bargain over the changes in terms and conditions of employment.
13. In so doing, Respondent has failed and refused to bargain in good faith with the Charging Party, in violation of Section 10(a)(4) and (1) of the Act.

14. The Respondent agrees to rescind the Manual, agrees to bargain in good faith in the future, and to post a notice indicating same.

II. DISCUSSION AND ANALYSIS

Section 10(a)(4) of the Act makes it an unfair labor practice for an employer to refuse to bargain collectively in good faith with a labor organization that is the exclusive representative of public employees in an appropriate unit. Violation of Section 10(a)(4) is often a derivative violation of Section 10(a)(1), which makes it an unfair labor practice for an employer to interfere with, restrain, or coerce public employees in the exercise of the rights guaranteed in the Act or to dominate or interfere with the formation, existence, or administration of a labor organization or contribute financial or other support to it.

A public employer also violates its obligation to bargain in good faith, and therefore Sections 10(a)(4) and (1) of the Act, when it makes a unilateral change in a mandatory subject of bargaining without granting notice to and an opportunity to bargain with its employees' exclusive bargaining representative. County of Lake, 28 PERI ¶67 (IL LRB-SP 2011); City of Chicago (Department of Police), 21 PERI ¶83 (IL LRB-LP 2005); County of Perry and Sheriff of Perry County, 19 PERI ¶124 (IL LRB-SP 2003). Together, Sections 7 and 4 of the Act govern the issue of mandatory bargaining under the Act. County of Cook (Juvenile Temporary Detention Center), 14 PERI ¶3008 (IL LLRB 1998). Generally, according to Section 7 of the Act, parties are required to bargain collectively regarding employees' wages, hours, and other conditions of employment – the “mandatory” subjects of bargaining. See County of St. Clair and Sheriff of St. Clair County, 28 PERI ¶18 (IL LRB-SP 2011); City of Peoria, 3 PERI ¶2025 (IL ISLRB 1987).

In this case, the parties have stipulated that the Respondent adopted a Personnel Manual that changed the terms and conditions of employment for members of the bargaining unit without providing the Charging Party with notice or an opportunity to bargain. In doing so, the Respondent violated Sections 10(a)(4) and (1) of the Act by failing to bargain in good faith over mandatory subjects of bargaining.

III. RECOMMENDED ORDER

IT IS HEREBY ORDERED that Respondent, its officers and agents, shall:

1. Cease and desist from:

- a. Adopting a Personnel Manual affecting the terms and conditions of employment for bargaining unit members without bargaining with the exclusive representative;
 - b. Failing and refusing to bargain in good faith with the International Union of Operating Engineers, Local 150 as to changes to the terms and conditions of employment; and
 - c. In any like or related manner, interfering with, restraining, or coercing employees in the exercise of the rights guaranteed by the Act.
2. Take the following affirmative actions to effectuate the purposes of the Act: rescind the Mercer County Personnel Manual distributed to bargaining unit employees on or about April 28, 2014.

IV. EXCEPTIONS

Pursuant to Section 1200.135 of the Board's Rules, the parties may file exceptions no later than 30 days after service of this recommendation. Parties may file responses to any exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the recommendation. Within 15 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, if at all, with the General Counsel of the Illinois Labor Relation Board, 160 North LaSalle Street, Suite S-400, Chicago, Illinois, 60601-3103. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted in the Board's Springfield office. 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. 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 22nd day of December, 2014.

**STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
STATE PANEL**

/s/ Sarah R. Kerley

**Sarah Kerley
Administrative Law Judge**

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County of Mercer

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