

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

American Federation of State, County and	)	
Municipal Employees, Council 31,	)	
	)	
Charging Party	)	
	)	
and	)	Case No. S-CA-14-145
	)	
County of Iroquois,	)	
	)	
Respondent	)	

**ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

On February 21, 2014, Charging Party, American Federation of State, County and Municipal Employees, Council 31, (“Charging Party” or “Union”), filed an unfair labor practice charge with the State Panel of the Illinois Labor Relations Board (“Board”), alleging that Respondent, County of Iroquois (“Respondent” or “County”) violated Sections 10(a)(7), 10(a)(4), and 10(a)(1) of the Illinois Public Labor Relations Act (“Act”), 5 ILCS 315 (2012), as amended, when the County failed to ratify a preliminary collective bargaining agreement that the parties reached through negotiations and mediation. The charges were investigated in accordance with Section 11 of the Act, and on March 22, 2014, the Board’s Executive Director issued a Complaint for Hearing (“Complaint”). On June 10, 2014, the Respondent filed an Answer to the Complaint. A hearing was held in Chicago, Illinois, on September 30, 2014, by the undersigned. At the hearing, the Charging Party presented evidence in support of its allegations and both parties were given an opportunity to participate, adduce relevant evidence, examine witnesses, argue orally, and file written briefs. After full consideration of the parties’ stipulations, motions, evidence, arguments, briefs, and upon the entire record of the case, I recommend the following:

**I. PRELIMINARY FINDINGS**

The parties stipulate, and I find that:

1. At all times material, Respondent has been a public employer within the meaning of Section 3(o) of the Act.
2. At all times material, the Respondent has been a unit of local government subject to the jurisdiction of the Board’s State Panel pursuant to Section 5 of the Act.

3. At all times material, the Respondent has been a unit of local government subject to Section 20(b) of the Act.
4. At all times material, the 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 has been the exclusive representative of a bargaining unit composed of 22 titles within the Respondent's Highway Department, Supervisor of Assessments, Courthouse, Board, Sheriff's Office, State's Attorney's Office, Treasurer's Office, Clerk, and Recorder of Deeds Office. (Unit).
6. The Charging Party and Respondent are parties to a collective bargaining agreement setting out terms and conditions of employment for the Unit's employees, and having a term of December 1, 2011, through November 30, 2013 [(2011 CBA)].
7. The [2011] CBA referenced in paragraph 6 included Article XIII Section 6, Layoff, which provides "[h]owever, the Employer and the Union agree that for the term of this agreement there shall be no layoffs and no furlough days." (Layoff Language).
8. Beginning in May 2012, the Charging Party and Respondent began bargaining over a successor to the [2011] CBA.

## **II. INVESTIGATORY FACTS**

### **2008 CBA**

The Union and the County were parties to a collective bargaining agreement that was effective from February 1, 2008 through November 30, 2010 ("2008 CBA"). The CBA's layoff section grants the "Employer[,] in its discretion [to] determine whether lay-offs are necessary unless it is clearly established that such a determination is arbitrary." The CBA also provides that "[t]here shall be no change in employee contributions of Twenty Dollars (\$20) per month for health insurance for the life of this agreement." The 2008 CBA grants all Unit members the following general wage increases: \$0.60 per hour on February 1, 2008, \$0.50 per hour on December 1, 2008, and \$0.50 per hour on December 1, 2009. The signature page provides "[e]xecuted on this 13th day of May, 2008, after receiving approval by the Iroquois County Board and after ratification by the Union members of employees within the bargaining units affected." Five Union representatives and the following eight County representatives signed the CBA: County Board Chairman, County Clerk, County Engineer, Supervisor of Assessments, Sheriff, State's Attorney, County Circuit Clerk, and County Treasurer.

## **2010 CBA**

In reaching their December 1, 2010 through November 30, 2011 collective bargaining agreement (“2010 CBA”) the parties used 2008 CBA as a template, but modified the insurance section and added the Layoff Language. The parties added the Layoff Language in direct response to the Unit’s failure to ratify a version of the 2010 CBA that included no general wage increase and required the Unit members to pay more for insurance. The County and the Union agreed that although the County could not provide wage increases and was increasing the Unit members’ insurance contributions, the County could at least guarantee job security by adding the Layoff Language. The CBA’s layoff section provides, in relevant part that the “Employer in its direction shall determine whether lay-offs are necessary unless it is clearly established that such a determination is arbitrary. However, the Employer and the Union agree that for the term of this agreement there shall be no layoffs and furlough days.”

This CBA also includes a termination clause, which provides:

Except where and to the extent expressly stated to the contrary, this Agreement shall be effective as to the 1<sup>st</sup> day of December, 2010, and shall remain in full force and effect until the 30<sup>th</sup> day of November, 2011. It shall be automatically renewed for an additional single year unless either party notifies the other in writing between August 1 and September 1, 2011, that it desires to modify the terms of this Agreement. However, the parties agree to begin bargaining as early as June, 2011, if either party requests. The terms of this Agreement shall remain in full force and effect during the duration of such negotiations and until such notice of intent to terminate this Agreement is provided the other party.

The signature page of the agreement provides “[e]xecuted on this 11th day of January, 2011, after receiving approval by the Iroquois County Board and after ratification by the Union members of employees within the bargaining units affected.” Five Union representatives and the following eight County representatives signed the CBA: County Board Chairman, County Clerk, County Engineer, Supervisor of Assessments, Sheriff, State’s Attorney, County Circuit Clerk, and County Treasurer.

## **2011 CBA**

The parties agreed to extend the terms of the 2010 CBA from December 1, 2011, through November 30, 2013, (“2011 CBA”) and ratified an agreement with the same terms as the 2010 CBA, including a one-time signing bonus of \$650 for each Unit member. The County’s sole

witness, Iroquois County Board Chairman Rod Copas, testified that the County agreed to give signing bonuses because the County was again not in a financial position to give wage increases, but it had determined that it had enough money to provide one-time bonus. Copas testified that the County's representatives discussed that because the County could not provide wage increases the Layoff Language would continue. The Union's sole witness, Union staff representative Michael Wilmore, testified that the Layoff Language was retained without discussion between the parties. Five Union representatives and eight County representatives signed the CBA.

The 2011 CBA, in its entirety, reads as followed:

Iroquois County and the American Federation of State, County and Municipal Employees, Council 31 on behalf of Local 3312, hereby agree to extend all of the terms of the December 1, 2010 through November 30, 2011 Collective Bargaining Agreement up to and through November 30, 2013. Furthermore, this extension is based upon the following terms and conditions of the agreement reached between Iroquois County and AFSCME Local 3312.

"The Employers agree with AFSCME Local 3312 to a two-year contract commencing December 1, 2011, and expiring November 30, 2013. Wages for the first year (12/1/11-11/30/12) shall be frozen. Effective December 1, 2012, each bargaining unit employee shall receive a \$650 signing bonus payable as soon as possible following ratification of this tentative agreement. This bonus is a one-time payment and shall not apply to any employee's base wage rate. The employee contributions for health insurance shall remain at the current levels through the term of this agreement (11/30/13). The parties assume that the Employer's contribution for health insurance is going to rise by \$650 per employee. This constitutes a raise in overall compensation of \$1,300. Should the Employer's health insurance contribution rise by less than \$650 per employee, the difference shall be applied to each employee's bonus check to reflect a raise in overall compensation of \$1,300 per employee. All other terms and conditions of the agreement that expired 11/30/11 shall remain in effect, unchanged, through the term of this agreement (11/30/13)."

### **Successor CBA**

On June 20, 2013, the Union initiated bargaining with the County over a successor CBA. This CBA was scheduled to be effective from December 1, 2013 through November 30, 2016. The Union's negotiating committee included Wilmore, and the County's negotiating committee included Copas and attorney David Hibben. In November 2013, the parties' negotiating committees reached a preliminary agreement that the Unit refused to ratify.<sup>1</sup> After the Unit refused to ratify the November 2013 preliminary agreement, the parties agreed that Mediator Joe

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<sup>1</sup> The November 2013 preliminary agreement is not included in the record, nor does the record indicate why the Unit refused to ratify the agreement.

Dula would mediate the outstanding issues. The parties agreed to use the 2011 CBA as a template, and the Union proposed changes to the existing language for mediation. The proposed changes were amending provisions regarding Article VII, Labor/Management Meetings; Article IX, Personnel Files; Article XI, Grievance Procedures; Article XX, Insurance; and Article XXI, General Economics, i.e. wage increases.

On or about, January 23, 2014, through mediation with Mediator Dula, the parties reached a preliminary agreement regarding those provisions the Union sought to change, and the remaining provisions that the parties had previously agreed to incorporate from the 2011 CBA. Regarding wage increases, the parties agreed that all employees shall receive the following wage increases: \$0.20 per hour on February 1, 2014, \$0.30 per hour on December 1, 2014, and \$0.30 per hour on December 1, 2015. Regarding insurance costs, the parties agreed to place employees contributions on an increasing scale, where previously employee contributions were \$50 per month, the contributions per the preliminary agreement are as follows: “\$61.39 per month beginning December 1, 2013, 15% of the premium<sup>2</sup> beginning April 1, 2014, 20% of the premium beginning December 1, 2014, and 25% of the premium beginning December 1, 2015. The specified dollar employee contribution for employee and child, and employee and spouse decreases until April 1, 2014, when it becomes 50% of the premium.

The parties agreed that the County would present the preliminary agreement to its Board for the vote at their February 11, 2014 meeting. The parties did not specifically discuss the Layoff Language at either any negotiation session, or the mediation session with Dula. At hearing, Wilmore testified that at the conclusion of the mediation session the parties confirmed that the Union’s proposed changes which were the subject of negotiations were the only provisions of the Successor CBA that would be different from the 2011 CBA. Specifically, Wilmore testified that the parties agreed that the mediated proposals were “all that we are changing” to the 2011 CBA.<sup>3</sup> Wilmore testified that the Union believed that the preliminary agreement included the Layoff

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<sup>2</sup> The record does not provide how much the premium is to determine whether the percentage contribution is less or more than the dollar amount contribution identified in the previous CBAs.

<sup>3</sup> Hearing Transcript at 53.

Q. Mr. Wilmore, the Charging Party[‘s] Exhibit 20[,the document the parties reviewed at their final negotiation session], did that represent the complete summation of all the changes in the collective bargaining agreement?

A. Yes. In the final discussion, this was down on the table, and we both looked at it and said, “So this is all that we are changing. This is the extent of the agreement. This is what we agreed to,” and both parties said yes.

Language. However, Copas testified that the County believed that the preliminary agreement did not include Layoff Language because it thought the language had automatically expired at the conclusion of the 2011 CBA.

On January 28, 2014, the Union reduced to writing and its membership ratified a Successor CBA that contained the changes reached through mediation and the language incorporated from the 2011 CBA, including the Layoff Language that had been in place since 2010 (“Successor CBA”). On January 30, 2014, the Union provided the County with a copy of the Successor CBA in order for the County Board to vote on whether to ratify the CBA. After the Union notified the County that its membership ratified the Successor CBA, but before February 11, 2014, Hibben notified the Union that the County’s negotiating committee was opposed to including the Layoff Language in the preliminary agreement.

On February 11, 2014, the County refused to vote on whether to ratify the Successor CBA because it contained the Layoff Language. Along with Copas’ testimony the record includes the following notes of the County Board meeting regarding the Successor CBA:

At the January 30th Policy & Procedure Committee meeting . . . [Board Member Kevin] Hansen discussed the AFSCME contract. There is language in the contract that is causing problems[,] and because of this[,] the contract will have to be voted down. Copas reiterated that both parties had come to an agreement and the Policy and Procedure Committee recommended approval of the contract. However, the contract received includes language that was never discussed. Hansen said if this matter cannot be corrected by Tuesday, February 11th, the County Board will need to vote it down.

As with the 2010 CBA, the signature page of the Successor CBA provides “Executed on this \_\_\_\_\_ day of February, 2014, after receiving approval by the Iroquois County Board and after ratification by the Union members of employees within the bargaining units affected[,]” and includes space for the signature of five Union representatives and the following County representatives: County Board Chairman, County Clerk, County Engineer, Supervisor of Assessments, Sheriff, State’s Attorney, County Circuit Clerk, and County Treasurer.

### **III. ISSUES AND CONTENTIONS**

This case presents several issues. The first issue is whether the parties entered into a preliminary agreement on the Successor CBA which included the Layoff Language. The second issue is whether the County engaged in unfair labor practices under the Act when the County Board refused to ratify the Successor CBA. The next, and related issue, is whether the County

violated the Act when the County Board refused to take a vote on whether to ratify the Successor CBA. The fourth issue is whether the County violated the Act when it informed the Union's negotiating committee that its negotiating committee opposed the preliminary agreement because it contained the Layoff Language, after the Union already ratified the preliminary agreement containing the language. The final issue to be resolved is if the County has violated the Act, what constitutes an appropriate remedy in this case.

The Union alleges that the County violated Sections 10(a)(7), 10(a)(4), and 10(a)(1) when it failed to ratify the Successor CBA which included the Layoff Language. Specifically, the Union argues that the Layoff Language is included in the preliminary agreement, and by extension the Successor CBA, because it and the County agreed that the only provisions from the 2011 CBA that were not incorporated into the preliminary agreement were those provisions Dula mediated. Furthermore, the Union argues that the preliminary agreement is binding on the County, and the County Board's failure to ratify the agreement negotiated on its behalf violates the Act. The Union also argues that the County did not otherwise take adequate steps to ratify the agreement. As a remedy, the Union proposes that the Board order the County to ratify the preliminary agreement the parties reached.

The County contends that its actions did not violate the Act. Specifically, the County argues that because the Layoff Language, which was included in the 2010 and 2011 CBAs, explicitly states that the provision was "for the term of this agreement," that the Layoff Language does not extend to the Successor CBA. The County also argues that because the Layoff Language in the 2010 and 2011 CBAs was included in response to the fact that the Union was not receiving wage increases, and because the Successor CBA *does* include wage increases, the County never intended to include the Layoff Language in the Successor CBA. Further, the County's position is that its refusal to ratify and sign a preliminary agreement including the Layoff Language does not violate the Act because the agreement proposed for ratification was not, in fact, what the parties agreed. Finally, the County argues that if the Board finds that its actions violate the Act, the appropriate remedy is to order the parties to continue to bargain.

#### **IV. DISCUSSION AND ANALYSIS**

Through the Complaint, the Union alleges that the County violated Sections 10(a)(7), 10(a)(4) and 10(a)(1) of the Act when the County failed to ratify the parties' preliminary

agreement. The Complaint also contains allegations that the County violated Section 10(a)(4) and (1) of the Act when the County refused to vote on the whether to ratify the preliminary agreement, and when the it notified the Union that the County's negotiating team was opposed to the Layoff Language's inclusion in the preliminary agreement, after the Union had already ratified the agreement including the Layoff Language. The County's entire defense is that the parties did not reach a preliminary agreement because the parties disagree over whether their preliminary agreement includes the Layoff Language because the parties never actually reached an agreement, the County's actions subsequent to the January 2013 mediation do not violate the Act. Accordingly, the threshold matter is whether the parties reached a preliminary agreement that included the Layoff Language.

**A. Did the parties' negotiating committees reach an agreement?**

An employer's refusal to reduce the collective bargaining agreement to writing and its refusal to execute the agreement violates Sections 10(a)(7), 10(a)(4), and 10(a)(1) of the Act if the employer has agreed to all of the terms of the proposed contract and there has been a meeting of the minds as to the meaning of those terms. Vill. of Frankfurt, 28 PERI ¶144 (IL LRB-SP 2012); City of Harvey, 18 PERI ¶2032 (IL LRB-SP 2002); Cnty. of Cook (Cermak Health Serv.), 10 PERI ¶3009 (IL LLRB 1994).

1. terms of the agreement

The parties concur to following: they agreed to use the 2011 CBA as a "template" for the Successor CBA; the Union proposed changes to the 2011 CBA; they agreed to mediate the Union's proposed changes to the 2011 CBA template; the Union's proposed changes did not identify the Layoff Language; and that the proposed changes were the only terms discussed with the mediator. Since it is uncontested that the parties agreed that the Successor CBA would consist of a) the 2011 CBA as a "template" and b) the incorporation of the Union's proposed changes, I find that the parties agreed to all the terms of the Successor CBA.

2. County's assent to the terms of the agreement

However, the County argues that it did not truly assent that the Layoff Language was part of the "template" it agreed to use. This argument really goes to whether there was a meeting of the minds as to the meaning of their agreement to use the 2011 CBA as a template. For a contract to exist, the parties to the agreement must have a meeting of the minds and must truly assent to the

same things in the same sense on all of its essential terms and conditions. LaSalle Nat'l Bank v. Int'l Ltd., 129 Ill. App. 2d 381, 394 (1970). The parties' objective conduct determines whether they reached a meeting of the minds, not their subjective beliefs. Paxton-Buckley-Loda Educ. Assoc. v. Ill. Educ'l Labor Rel. Bd., 304 Ill. App. 3d 343, 350 (4th Dist. 1999); Cnty. of Tazewell, 19 PERI ¶ 39 (IL LRB-SP 2003); City of Chicago (Police Dep't.), 14 PERI ¶ 3010 (IL LLRB 1998); Cnty. of Cook and Sheriff of Cook Cnty., 26 PERI ¶ 13 (IL LRB-LP 2010). Objective evidence can consist of a verbal agreement, or other statements the parties made during negotiations. See Paxton-Buckley-Loda Educ. Assoc., 304 Ill. App. 3d at 350 citing State Community College, 6 PERI ¶1146, (IL IELRB 1990) (a meeting of the minds was demonstrated by the existence of a verbal agreement).

The Layoff Language was introduced in the 2010 CBA as a response to the Union membership's refusal to ratify a tentative agreement that both provided no wage increase and increased the membership's insurance payments. The Layoff Language was again included in the 2011 CBA when there was again no wage increase. However, the 2011 CBA did not include an increase in insurance costs. Nonetheless, the Layoff Language was included without specific discussion amongst the parties. Copas testified that the County believed that the Layoff Language was tied to wages, but the record demonstrates that the language was previously tied to both wages and insurance costs. The record further demonstrates that the County did not convey this subjective belief to the Union. That the Layoff Language was not discussed between the parties during the 2011 CBA negotiations, but was still included in the 2011 CBA demonstrates that the parties agreed to incorporate the terms of the 2011 CBA, including the Layoff Language. Since the parties have previously agreed to include the Layoff Language without specific discussion, in order to find that the Layoff Language is included in the Successor CBA I do not need to address whether it either automatically extinguishes, only whether the parties agreed to include the language in the Successor CBA.

The County argues that its negotiating committee believed that the Layoff Language was not included in the "template" because 1) by its clear language, the Layoff Language did not carry over to the successor agreement, and 2) the County believed that the Layoff Language was tied to wages. However, the objective conduct of the County renders these arguments unpersuasive.

First, the County previously carried over the Layoff Language from the 2010 CBA to the 2011 CBA without amending the language of the Layoff Language. If, on its face, the Layoff

Language automatically extinguished at the end of the term of the CBA into which it was inserted, then the County could not have agreed to continue with a no-layoff policy in the 2011 CBA without specifically including the Layoff Language. This did not occur, yet it is uncontested that the Layoff Language continued through the 2011 CBA. The County's objective with respect to the inclusion of the Layoff Language absent negotiating its removal undercuts the argument that the County believed that the Layoff Language was not included in the template.

Second, the County's objective conduct also demonstrates that the Layoff Language is not solely tied to wages. The County points to Copas' testimony that the Layoff Language was initially inserted into the 2010 CBA and continued into the 2011 CBA because the County could not offer raises. The argument follows that since the County was offering raises in the Successor CBA, the Layoff Language fell away. However, the minutes from the County Board's Policy and Procedure Committee meeting demonstrate that even when faced with another Board member's concern regarding inclusion of the Layoff Language in the proposed contract, Copas informed the group that "the parties had come to an agreement[,]” and recommended ratifying the Successor CBA that included the language. Thus, Copas' actions controvert the County's subjective belief. See Cnty. of Cook and Sheriff of Cook Cnty., 26 PERI ¶13.

The County's objective conduct in the treatment of the Layoff Language in prior CBAs, coupled with Copas' assertion to the County Board Policy and Procedure Committee that the parties had reached an agreement, contradicts the argument that the parties did not assent to using the 2011 CBA, including the Layoff Language, as the basis for the not-otherwise-negotiated provisions for the at-issue contract. To the contrary, I find that the parties did, in fact, agree that the Successor CBA is comprised of the 2011 CBA including the Layoff Language, incorporating any mediated changes.

### 3. meaning of the Layoff Language

While interpreting the Layoff Language is not required to determine whether it is included in the Successor CBA, if the parties do not have a meeting of the minds as to the language's meaning, then they did not reach an agreement. There is no meeting of the minds when the parties understand the agreement's terms differently. Vandevier v. Mulay Plastics, Inc., 135 Ill. App. 3d 787, 791 (1st Dist. 1985). The parties do not dispute the Layoff Language's meaning. As evidenced by Copas, the County believes that on its face, the Layoff Language automatically extinguishes at the conclusion of the 2011 CBA. The Union does not dispute this interpretation,

rather, as evidenced by Wilmore, the Union believes that the parties agreed to extend the language when they agreed to use the 2011 CBA as a template. The Union's belief comes from the parties' negotiations, not the Layoff Languages' meaning. Given that there is no evidence that the County and the Union understand the Layoff Language differently and the parties have included the Layoff Language in their CBAs since 2010 without prior dispute, I must infer that the parties share an understanding of the language's meaning. Therefore, the parties reached a preliminary agreement that included the Layoff Language.

**B. Did the County violate the Act after reaching the preliminary agreement?**

Having found that the parties reached a preliminary agreement, I turn to whether the County violated the Act when it 1) refused to ratify the preliminary agreement, 2) refused to vote on whether to ratify the preliminary agreement, and 3) notified the Union that the County's negotiating team was opposed to the Layoff Language's inclusion in the preliminary agreement, after the Union had already ratified the agreement including the Layoff Language.

1. County's refusal to ratify the preliminary agreement

Section 10(a)(7) of the Act provides that it is an unfair labor practice for a public employer to "refuse to reduce a collective bargaining agreement to writing or to refuse to sign such agreement." Section 10(a)(4) provides, in relevant part, that it is an unfair labor practice for a public employer to "refuse to bargain collectively in good faith with a labor organization which is the exclusive representative of public employees in an appropriate unit[.]" Section 10(a)(1) of the Act provides, in relevant part, that it is an unfair labor practice for a public employer or its agents "to interfere with, restrain or coerce public employees in the exercise of the rights guaranteed in this Act or to dominate or interfere with the formation, existence or administration of any labor organization[.]" The duty to bargain in good faith under Section 10(a)(4) of the Act encompasses an obligation to reduce to writing and to execute agreements reached through the collective bargaining process. City of Harvey, 18 PERI ¶2032. A public employer's failure to execute a preliminary collective bargaining agreement may violate a duty to bargain in good faith because "a party's commitment to live up to its agreements is the cornerstone of good faith bargaining and effective labor relations." Ill. Dep'ts. of Corr. and Cent. Mgmt. Serv., 4 PERI ¶2043 (IL SLRB 1988); see Cnty. of Cook and Sheriff of Cook Cnty., 26 PERI ¶13; Cnty. of Cook (Cermak Health Serv.), 10 PERI ¶3009; City of Burbank, 4 PERI ¶2048 (IL SLRB 1988).

Whether the County violated its duty to bargain in good faith because it failed to ratify the preliminary agreement turns on whether the County was bound to ratify the preliminary agreement. Section 7 of the Act explicitly provides that while the parties are required to negotiate in good faith, neither party is required to agree to a proposal or to make a concession. The Act is silent as to ratification of a negotiated collective bargaining agreement. In situations where an issue of whether the non-ratifying party violates the Act, in order to escape liability the non-ratifying party must prove that the parties agreed that ratification was necessary to contract formation. See Harvey Park Dist. v. Am. Fed'n of Prof'ls, 386 Ill. App. 3d 773, (4th Dist. 2008) (affirming the Board's dismissal of an unfair labor practice charge where the union's membership voted against ratification of a tentative agreement); N.L.R.B. v. General Teamsters Union Local 662, 368 F.3d 741 (7th Cir. 2004). The County does not argue that it did not violate the Act because the agreement was not binding until the County Board accepted and ratified the preliminary agreement. However, the Board has previously noted that "contract ratification votes are a nearly universal component of the bargaining process." See Harvey Park Dist., 23 PERI ¶132 (IL LRB-SP 2007) aff'd sub. nom Harvey Park Dist. v. Am. Fed'n of Prof'ls, 386 Ill. App. 3d at 779. Accordingly, I will address whether the County was bound to ratify the preliminary agreement. Specifically, if the preliminary agreement was binding, then the County Board was required to ratify it, and its failure to do so violates Sections 10(a)(7), 10(a)(4), and 10(a)(1) of the Act. Id.

In labor negotiations, there is an inference that negotiators have the ability to bind their principal. Ill. Dep't. of Cent. Mgmt. Serv. v. Ill. State Labor Rel. Bd., 216 Ill. App. 3d 570, 576 (4th Dist. 1991); TriState Fire Protection Dist., 31 PERI ¶78 (IL LRB-SP 2014); see Burbank, 4 PERI ¶2048. Whether a negotiator has authority to bind its principal concerns agency law and should be resolved on labor law principles that require the negotiator to clarify and give notice that he or she lacks authority to bind its principal. Ill. Dep't. of Cent. Mgmt. Serv., 216 Ill. App. 3d at 576. In accordance with agency law, if a bargaining agent possesses the actual or the apparent authority to enter into a tentative agreement, the principal is legally bound by the agreement and its subsequent refusal to execute and implement the agreement is a breach of its duty to bargain in good faith. State of Ill. Dep't of Cent. Mgmt. Serv. (Dep't of Corr.), 6 PERI ¶2038 (IL SLRB 1990); Burbank, 4 PERI ¶2048. The negotiation committee is responsible to keep the principal apprised, and presumably, the principal provides direction to the committee as

it is at the negotiation table. State of Ill. Dep't of Cent. Mgmt. Serv. (Dep't of Corr.), 6 PERI ¶2038; Burbank, 4 PERI ¶2048. Thus, without contrary evidence, there is an inference that the County's negotiating committee is authorized to bind the County to the preliminary agreement's terms. See Ill. Dep't. of Cent. Mgmt. Serv., 216 Ill. App. 3d at 576; Burbank, 4 PERI ¶2048.

The Appellate Court has observed that sufficient contrary evidence includes, 1) non-ratifying party's constitution or by-laws require ratification, 2) the parties' negotiating ground rules specifically require ratification, 3) non-ratifying party specifically informed the other party that the negotiating team only had the authority to tentatively agree and then recommend ratification to its principal, and 4) past history indicating that ratification was unnecessary. Harvey Park Dist., 386 Ill. App. 3d at 779 (affirming the Board's dismissal and holding that the tentative agreement was not binding because the union's constitution required majority ratification); citing Burbank, 4 PERI ¶2048 (members of the employer's negotiating team never indicated that they had sufficient authority to bind the employer, and the ground rules provided that an agreement was only final upon ratification by the respective principals); Cnty. of Woodford and Woodford Cnty. Sheriff, 8 PERI ¶2019 (IL SLRB 1992) (employer specifically informed the union that the employer's attorney's authority to bargain was limited to agreeing to proposals pre-approved by the employer's negotiating committee, and even then all agreements were tentative subject to ratification by the union's members and the employer's board); Vill. of Maywood, 10 PERI ¶2018 (IL SLRB ALJ 1994) (in prior negotiations, the village manager had served as the village's sole bargaining representative and had signed parties' previous bargaining agreement on the village's behalf).

Here, the parties have not provided evidence of their ground rules. There is no evidence that anyone from the County's negotiating committee informed anyone on the Union's negotiating committee that the committee had limited authority. Also, the record does not include, nor could I otherwise find, that the County's public by-laws require Board ratification of collective bargaining agreements. However, the parties' bargaining history indicates that the County Board ratified the 2008, 2010, and 2011 CBAs. Furthermore, because the agreement can only be executed "after receiving approval by the Iroquois County Board[,]" it is implicit that approval by ratification is a condition precedent to the parties reaching a binding agreement. Therefore, I find that the County Board was not bound to ratify the preliminary agreement, and its failure to do so does not violate the Act.

2. County's refusal to vote on whether or not to ratify the preliminary agreement

The negotiating committees agreed to recommend the preliminary agreement's terms to their respective principals, the Union membership and the County Board. As explained above, a negotiator is generally authorized to bind its principal. Ill. Dep't. of Cent. Mgmt. Serv., 216 Ill. App. 3d at 576. The County presents no argument, and there is otherwise insufficient evidence to support a finding that the County negotiating committee was not authorized to bind the County to the agreed-upon action of taking a ratification vote. I find that while it was not bound to ratify the agreement, the County Board was bound to take a vote on whether to ratify, and its refusal and failure to do so violates Sections 10(a)(4) and (1) of the Act.

3. notifying the Union that the County's negotiating team was opposed to the inclusion of the Layoff Language in the preliminary agreement

It is an unfair labor practice for each negotiator to fail to notify the other party in advance that such negotiator will not affirmatively support a tentative agreement for ratification. Cnty. of Fulton and Fulton Cnty. Sheriff, 7 PERI ¶2020 (IL SLRB 1991). After the Union ratified a preliminary agreement that included the Layoff Language, a County representative informed the Union that the County's negotiating committee was opposed to the inclusion of the Layoff Language in the preliminary agreement. However, the record demonstrates that the County's negotiating committee, and specifically Copas, recommended that the County ratify the preliminary agreement that included the Layoff Language, and Copas did not act in opposition to ratification. Accordingly, I find that the Union has failed to show that the County violated the Act when its negotiating team informed the Union of its opposition to the terms of the preliminary agreement.

**C. What is the appropriate remedy?**

The Board's standard make-whole remedy is to place the parties in the position they would have been in had the Respondent not violated the Act. Here, the Respondent violated the Act when the County Board refused to vote on ratifying the preliminary agreement. Therefore, the appropriate remedy requires the County Board to vote on ratification, and if the County Board votes against ratification, either party can request to continue bargaining. See Cnty. of Cook and Sheriff of Cook Cnty., 26 PERI ¶13; Harvey Park Dist., 23 PERI ¶132.

**V. CONCLUSIONS OF LAW**

1. Respondent did not violate Sections 10(a)(7) and (1) of the Act when it failed and refused to sign an agreement reflecting the terms the parties agreed to on January 23, 2014.
2. Respondent did not violate Sections 10(a)(4) and (1) of the Act when it failed and refused to sign an agreement that reflects the terms the parties agreed to on January 23, 2014
3. Respondent violated Sections 10(a)(4) and (1) of the Act when Respondent's County Board refused to vote on the preliminary agreement.
4. Respondent did not violate Sections 10(a)(4) and (1) of the Act after reaching a preliminary agreement when it notified the Charging Party that its negotiating committee was opposed to the inclusion of the Layoff Language contained in the preliminary agreement.
5. The appropriate remedy is to order Respondent to vote on whether to ratify and implement the terms of the preliminary agreement reached on or about January 23, 2014.

**VI. RECOMMENDED ORDER**

IT IS HEREBY ORDERED that Respondent, the County of Iroquois, its officers and agents shall:

1. Cease and desist from:
  - a. Failing and refusing to bargain in good faith with the American Federation of State, County and Municipal Employees, Council 31, by failing to vote to ratify a preliminary agreement reached during negotiations.
  - b. In any like or related manner, interfering with, restraining or coercing its employees in the exercise of rights guaranteed them under the Act.
2. Take the following affirmative action designed to effectuate the policies of the Act:
  - a. Vote on whether to ratify and then execute the successor agreement with American Federation of State, County and Municipal Employees, Council 31, as agreed to on January 23, 2014.
  - b. Post at all places where notices to employees are ordinarily posted, copies of the notice attached hereto and marked "Addendum." Copies of this Notice shall be posted, after being duly signed by the Respondent, in conspicuous places for a period of 60 consecutive days.
  - c. The Respondent shall take reasonable efforts to ensure that the notices are not altered, defaced or covered by any other material.

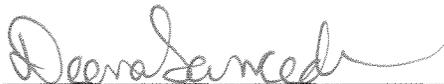
- d. Notify the Board in writing, within 20 days from the date of this decision, of the steps the Respondent has taken to comply herewith.

## **VII. EXCEPTIONS**

Pursuant to Section 1200.135 of the Board's 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 15 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 7 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 General Counsel of the Illinois Labor Relations Board, 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 Chicago, Illinois this 8th day of June, 2015.**

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



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**Deena Sanceda  
Administrative Law Judge**