

State of Illinois
Illinois Educational Labor Relations Board

CHARGE AGAINST EMPLOYER

Case:

Date Filed:

1. Employer against whom charge is brought

a. Name of Employer: Chicago Board of Education (“CBE)

b. Address: 1 N. Dearborn Street, 9th Floor, Chicago Illinois 60602

c. Employer Representative: Kaitlyn Girard, Labor Relations Officer

d. Telephone No. 773-553-1700

e. The above-named employer has engaged in and is engaging in unfair labor practices within the meaning of section 14(a), subsections (1) and (5) of the Illinois Educational Labor Relations Act.

2. Basis of the Charge

The world is currently in the midst of a pandemic caused by SAR-CoV-2 (the coronavirus), which causes coronavirus disease 2019 or COVID-19. More than 8.3 million people in the United States have been infected with the disease and more than 220,000 people have died from it. This number of deaths is almost certainly an underestimate. The number of daily infections in the last week has risen to levels not seen since last summer, with 70,000 new cases reported on Friday, October 16. The head of the prestigious Center for Infectious Disease Research and Policy, Dr. Michael Osterholm, predicted on October 18, 2020 that “the next 6-12 weeks are going to be the darkest of the entire pandemic.”

Illinois has had over 360,000 cases and almost 9,400 deaths. In the last week, new infections have averaged more than 4,000 per day. According to the Illinois Department of Public Health, more than 34 counties in the State are now on “alert” status, including those that ring the Chicago Schools. The statewide positivity rate for the last week is in excess of 5%.

The City of Chicago has had over 91,000 infections and over 3,000 deaths. The disease has surged. The City is averaging 682 new cases per day, up 20% from last week. The City’s positivity rate is 6.7%, also an increase from last week. Due to this surge in the disease, the Mayor has implemented new restrictions: (1) a 10 pm curfew on non-essential businesses; (2) a ban on indoor bars that do not serve food; and (3) a cap on indoor social gatherings of more than 6 people from different households. The Director of the Chicago Department of Public Health

explained that in a group of 25 people that there is a 30% chance that one person is infected and that in a group of 50 people there is a 50% chance that one person is infected. The CBE knows of hundreds of employees or vendors that have been infected with the virus and of at least 8 who have died from it.

The COVID-19 pandemic has decimated the economy of the nation and severely strained the nation's health care system. The disease is very contagious. It can be spread by individuals who have very mild symptoms or who are asymptomatic. Accordingly, the disease is especially hazardous in congregate settings, such as schools, where people work together in close contact. Members of minority groups are more likely to become seriously ill or die if they contract the disease.

In Illinois, Governor JB Pritzker declared a disaster early in March. On March 13, he issued Executive Order No. 2020-05, which ordered the closure of schools in the State by March 17, 2020. Shortly thereafter, the Governor issued a "stay at home" order for the entire State. In response to these orders, the CBE shifted to remote learning for the remainder of the 2019-2020 school year. The District continued remote learning in the first quarter of the 2020-21 school year.

The Union represents approximately 22,000 teachers and several thousand other employees of the school district. The teachers live within the City limits and work at schools all over the City.

Section 14 of the collective bargaining agreement between the parties requires the CBE to provide a safe working environment to the employees represented by the Union.

Section 14-1. provides:

Safe and Healthful Working Conditions

Bargaining unit employees shall work under safe and healthful conditions.

Section 14-2. provides:

Situations Likely to Cause Serious Harm

When the UNION determines that a situation has arisen that is likely to cause serious physical or emotional harm to bargaining unit employees, the UNION may bring it to the attention of the Chief Executive Officer who shall assess the situation within three school days. The assessment shall include on-site inspection where appropriate. After performing the assessment, the Chief Executive Officer and the UNION President or their designees shall meet to discuss the situation and explore possible solutions.

In addition, Section 1-15 of the collective bargaining agreement grants Union representatives the right to enter CPS premises to inspect their working conditions.

In response to a Union subpoena during the school clerks arbitration, CBE provided documents regarding the maintenance of the ventilation systems in its schools. The documents revealed that hundreds of schools had serious maintenance problems in their ventilation systems. On September 30, 2020, the Union requested the right to inspect 13 schools which had serious maintenance issues in their HVAC systems pursuant to Section 14-2 of the collective bargaining agreement.

CBE denied the Union's request to perform an inspection of the 13 schools. CBE stated that it had conducted its own assessment of its schools and that no inspections were necessary under the CBA. In addition, CBE has refused to allow the Union to review the documents used and created by the firms that it hired to do the assessment. CBE has also refused to provide information to the Union regarding COVID-19 outbreaks at its facilities and regarding the information it considered when it decided to resume in person learning for some students in November 2020.

The Union is filing a grievance and request for expedited arbitration over the refusal of the CBE to allow inspections of the schools identified in the September 30th letter.

On October 16, 2020, the CBE announced that it intended to restart in person instruction for special education and for younger students during the second academic quarter, which starts on November 9, 2020. It announced this decision without bargaining with the Union.

CBE violated Section 14(a)(5) by unilaterally announcing its decision to resume in person learning for several thousand students without engaging in good faith bargaining with the Union. This unilateral change to the terms and conditions of employment deprived the Union of a meaningful opportunity to bargain about the health and safety of its members. CBE also violated Section 14(a)(5) by refusing to allow the Union and its experts to inspect the premises with HVAC systems that are not fully operational and that have serious maintenance problems, by refusing to provide documents with respect to its own alleged assessment of its ventilation systems, and by failing to respond to other Union information requests relevant to bargaining over the health and safety of its members in a timely manner. CBE has violated Section 14(a)(1) by refusing to arbitrate the grievance over the violation of Article 14-2 and Article 1-15 of the contract in a manner that will allow an arbitrator to provide a meaningful remedy.

3. Relief Sought

The Board should require the CBE to bargain in good faith prior to any decision to resume face to face instruction at its schools and from resuming such instruction prior to the completion of such good faith bargaining. The Board should order CBE to provide the information it has regarding its assessment of the ventilation systems at its schools and to allow the Union's expert to inspect the ventilation systems at the schools. It should also order the CBE to arbitrate the Union's grievance over the violation of Article 14-2 and Article 1-15 of the collective bargaining agreement.

In addition, the Board should seek injunctive relief pursuant to Section 16(d) of the Act to

require the District to maintain the status quo ante pending a full decision on the merits of these charges.

4. Full name of party filing charge: Chicago Teachers Union, Local No. 1, IFT-AFT, AFL-CIO

5a: Address: 1901 W. Carroll, Chicago, Illinois, 60012

5b. Telephone No: 312-329-9100

6. Full name of national or international organization of which it is an affiliate or constituent unit: American Federation of Teachers, AFL-CIO

7. DECLARATION

I declare that I have read the above charge and that the statements are true to the best of my knowledge and belief

/s/ Stephen A. Yokich

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