

**STATE OF ILLINOIS
EDUCATIONAL LABOR RELATIONS BOARD**

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Mid Valley Special Education

In the Matter of:)	
)	
Amy Whiting-Singer,)	
)	
Complainant,)	
)	
and)	Case No. 2013-CA-0077-C
)	
Mid-Valley Special Education)	
Cooperative,)	
)	
Respondent.)	

OPINION AND ORDER

On May 5, 2013, Amy Whiting-Singer (“Charging Party”) filed an unfair labor practice charge with the Illinois Educational Labor Relations Board (“IELRB”) alleging that the Respondent, Mid-Valley Special Education Cooperative (“MVSEC”) violated Section 14(a) of the Illinois Educational Labor Relations Act (“Act”), 115 ILCS 5/1, *et seq.* (2012), *as amended*. The Charging Party contended that MVSEC violated the Act when it terminated her employment in retaliation for her efforts, on behalf of her students, to compel MVSEC to follow federal and state laws related to educating individuals with disabilities, including the Individuals with Disabilities Education Act, 20 U.S.C. §§1400 *et seq.* (“IDEA”).

The charge was investigated in accordance with Section 15 of the Act. On January 29, 2014, the Executive Director of the IELRB issued an Executive Director’s Recommended Decision and Order (“EDRDO”). The Executive Director determined that the unfair labor practice charge failed to raise an issue of law or fact sufficient to warrant a hearing, and, pursuant to Section 1120.30(b)(5) of the IELRB’s Rules, dismissed the charge. 80 Ill. Adm. Code 1120.30(b)(5).

On February 16, 2014, the Charging Party filed timely exceptions to the EDRDO. For the reasons in this Opinion and Order, we find that the exceptions are without merit.

We consider the Charging Party's exceptions in accordance with Section 1120.30(c) of the IELRB's Rules, which provides that "in reviewing exceptions, the Board must consider whether the Executive Director's decision is consistent with the Act and this Part and whether there has been an abuse of discretion." 80 Ill. Adm. Code 1120.30(c). In her exceptions, the Charging Party again asserts that advocating for her students is protected activity. In support of this assertion, she relies on the protections contained in the IDEA, as well as the anti-retaliation provisions of Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §794, and the Americans with Disabilities Act, 42 U.S.C. §§12101 *et seq.*

Section 3 of the Act guarantees educational employees certain rights, including the right to "organize, form, join, or assist in employee organizations" or "engage in lawful concerted activities for the purpose of . . . mutual aid and protection." 115 ILCS 5/3(a). Whether an employee has been deprived of rights protected by a statute other than the Act or by the Constitution is not within the jurisdiction of the IELRB. *Illinois Federation of State Office Educators, Local 3236, IFT/AFT*, 24 PERI 104, Case Nos. 2007-CB-0002-C, 2007-CA-0008-C (IELRB Opinion and Order, September 11, 2007); *George S. Patton School District 133*, 10 PERI 1118, Case No. 94-CA-0050-C (IELRB Opinion and Order, August 19, 1994). There was no evidence presented that the Charging Party advocated on behalf of other teachers or that teachers were working together. See *Board of Education of Schaumburg Community Consolidated School District 54 v. IELRB*, 247 Ill.App.3d 439, 616 N.E.2d 1281 (1st Dist. 1993). Accordingly, Charging Party's claims are not within our jurisdiction.

The Charging Party has not raised an issue within the IELRB's jurisdiction. Therefore, the dismissal of her charge by the Executive Director was consistent with the Act and was not an abuse of discretion. The unfair labor practice charge is dismissed.

Right to Appeal

This is a final order of the Illinois Educational Labor Relations Board. Aggrieved parties may seek judicial review of this Order in accordance with the provisions of the Administrative

Review Law, except that, pursuant to Section 16(a) of the Act, such review must be taken directly to the appellate court of the judicial district in which the Board maintains an office (Chicago or Springfield). "Any direct appeal to the Appellate Court shall be filed within 35 days from the date that a copy of the decision sought to be reviewed was served upon the party affected by the decision," 115 ILCS 5/16(a).

Decided: May 15, 2014
Issued: May 19, 2014
Chicago, Illinois

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Lynne O. Sered, Chairman

/s/ Ronald F. Ettinger
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/s/ Gilbert O'Brien
Gilbert O'Brien, Member

/s/ Michael H. Prueter
Michael H. Prueter, Member

/s/ Michael K. Smith
Michael K. Smith, Member