

SB2546



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

SB2546

Introduced 2/6/2018, by Sen. Daniel Biss

SYNOPSIS AS INTRODUCED:

115 ILCS 5/2

from Ch. 48, par. 1702

Amends the Illinois Educational Labor Relations Act. Provides that the term "student" within the definition of "educational employee" or "employee" as used in the Act includes (rather than excludes) graduate students who are teaching assistants primarily performing duties that involve the delivery and support of instruction and all other graduate students. Effective immediately.

LRB100 15995 AXK 31113 b

A BILL FOR

1 AN ACT concerning education.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Educational Labor Relations Act is
5 amended by changing Section 2 as follows:

6 (115 ILCS 5/2) (from Ch. 48, par. 1702)

7 Sec. 2. Definitions. As used in this Act:

8 (a) "Educational employer" or "employer" means the
9 governing body of a public school district, including the
10 governing body of a charter school established under Article
11 27A of the School Code or of a contract school or contract
12 turnaround school established under paragraph 30 of Section
13 34-18 of the School Code, combination of public school
14 districts, including the governing body of joint agreements of
15 any type formed by 2 or more school districts, public community
16 college district or State college or university, a
17 subcontractor of instructional services of a school district
18 (other than a school district organized under Article 34 of the
19 School Code), combination of school districts, charter school
20 established under Article 27A of the School Code, or contract
21 school or contract turnaround school established under
22 paragraph 30 of Section 34-18 of the School Code, an
23 Independent Authority created under Section 2-3.25f-5 of the

1 School Code, and any State agency whose major function is
2 providing educational services. "Educational employer" or
3 "employer" does not include (1) a Financial Oversight Panel
4 created pursuant to Section 1A-8 of the School Code due to a
5 district violating a financial plan or (2) an approved
6 nonpublic special education facility that contracts with a
7 school district or combination of school districts to provide
8 special education services pursuant to Section 14-7.02 of the
9 School Code, but does include a School Finance Authority
10 created under Article 1E or 1F of the School Code and a
11 Financial Oversight Panel created under Article 1B or 1H of the
12 School Code. The change made by this amendatory Act of the 96th
13 General Assembly to this paragraph (a) to make clear that the
14 governing body of a charter school is an "educational employer"
15 is declaratory of existing law.

16 (b) "Educational employee" or "employee" means any
17 individual, excluding supervisors, managerial, confidential,
18 short term employees, student, and part-time academic
19 employees of community colleges employed full or part time by
20 an educational employer, but shall not include elected
21 officials and appointees of the Governor with the advice and
22 consent of the Senate, firefighters as defined by subsection
23 (g-1) of Section 3 of the Illinois Public Labor Relations Act,
24 and peace officers employed by a State university. For the
25 purposes of this Act, part-time academic employees of community
26 colleges shall be defined as those employees who provide less

1 than 3 credit hours of instruction per academic semester. In
2 this subsection (b), the term "student" includes graduate
3 students who are research assistants primarily performing
4 duties that involve research, ~~or~~ graduate assistants primarily
5 performing duties that are pre-professional, ~~but excludes~~
6 graduate students who are teaching assistants primarily
7 performing duties that involve the delivery and support of
8 instruction, and all other graduate assistants.

9 (c) "Employee organization" or "labor organization" means
10 an organization of any kind in which membership includes
11 educational employees, and which exists for the purpose, in
12 whole or in part, of dealing with employers concerning
13 grievances, employee-employer disputes, wages, rates of pay,
14 hours of employment, or conditions of work, but shall not
15 include any organization which practices discrimination in
16 membership because of race, color, creed, age, gender, national
17 origin or political affiliation.

18 (d) "Exclusive representative" means the labor
19 organization which has been designated by the Illinois
20 Educational Labor Relations Board as the representative of the
21 majority of educational employees in an appropriate unit, or
22 recognized by an educational employer prior to January 1, 1984
23 as the exclusive representative of the employees in an
24 appropriate unit or, after January 1, 1984, recognized by an
25 employer upon evidence that the employee organization has been
26 designated as the exclusive representative by a majority of the

1 employees in an appropriate unit.

2 (e) "Board" means the Illinois Educational Labor Relations
3 Board.

4 (f) "Regional Superintendent" means the regional
5 superintendent of schools provided for in Articles 3 and 3A of
6 The School Code.

7 (g) "Supervisor" means any individual having authority in
8 the interests of the employer to hire, transfer, suspend, lay
9 off, recall, promote, discharge, reward or discipline other
10 employees within the appropriate bargaining unit and adjust
11 their grievances, or to effectively recommend such action if
12 the exercise of such authority is not of a merely routine or
13 clerical nature but requires the use of independent judgment.
14 The term "supervisor" includes only those individuals who
15 devote a preponderance of their employment time to such
16 exercising authority.

17 (h) "Unfair labor practice" or "unfair practice" means any
18 practice prohibited by Section 14 of this Act.

19 (i) "Person" includes an individual, educational employee,
20 educational employer, legal representative, or employee
21 organization.

22 (j) "Wages" means salaries or other forms of compensation
23 for services rendered.

24 (k) "Professional employee" means, in the case of a public
25 community college, State college or university, State agency
26 whose major function is providing educational services, the

1 Illinois School for the Deaf, and the Illinois School for the
2 Visually Impaired, (1) any employee engaged in work (i)
3 predominantly intellectual and varied in character as opposed
4 to routine mental, manual, mechanical, or physical work; (ii)
5 involving the consistent exercise of discretion and judgment in
6 its performance; (iii) of such character that the output
7 produced or the result accomplished cannot be standardized in
8 relation to a given period of time; and (iv) requiring
9 knowledge of an advanced type in a field of science or learning
10 customarily acquired by a prolonged course of specialized
11 intellectual instruction and study in an institution of higher
12 learning or a hospital, as distinguished from a general
13 academic education or from an apprenticeship or from training
14 in the performance of routine mental, manual, or physical
15 processes; or (2) any employee, who (i) has completed the
16 courses of specialized intellectual instruction and study
17 described in clause (iv) of paragraph (1) of this subsection,
18 and (ii) is performing related work under the supervision of a
19 professional person to qualify himself or herself to become a
20 professional as defined in paragraph (1).

21 (1) "Professional employee" means, in the case of any
22 public school district, or combination of school districts
23 pursuant to joint agreement, any employee who has a certificate
24 issued under Article 21 or Section 34-83 of the School Code, as
25 now or hereafter amended.

26 (m) "Unit" or "bargaining unit" means any group of

1 employees for which an exclusive representative is selected.

2 (n) "Confidential employee" means an employee, who (i) in
3 the regular course of his or her duties, assists and acts in a
4 confidential capacity to persons who formulate, determine and
5 effectuate management policies with regard to labor relations
6 or who (ii) in the regular course of his or her duties has
7 access to information relating to the effectuation or review of
8 the employer's collective bargaining policies.

9 (o) "Managerial employee" means an individual who is
10 engaged predominantly in executive and management functions
11 and is charged with the responsibility of directing the
12 effectuation of such management policies and practices.

13 (p) "Craft employee" means a skilled journeyman, craft
14 person, and his or her apprentice or helper.

15 (q) "Short-term employee" is an employee who is employed
16 for less than 2 consecutive calendar quarters during a calendar
17 year and who does not have a reasonable expectation that he or
18 she will be rehired by the same employer for the same service
19 in a subsequent calendar year. Nothing in this subsection shall
20 affect the employee status of individuals who were covered by a
21 collective bargaining agreement on the effective date of this
22 amendatory Act of 1991.

23 (Source: P.A. 97-429, eff. 8-16-11; 98-1155, eff. 1-9-15.)

24 Section 99. Effective date. This Act takes effect upon
25 becoming law.