



**JIM RYAN**

ATTORNEY GENERAL  
STATE OF ILLINOIS



July 14, 1995

FILE NO. 95-005

GOVERNMENTAL ETHICS AND  
CONFLICT OF INTEREST:  
Illinois Local Labor  
Relations Board Member

Mr. Manny Hoffman  
Chairman  
Illinois State and Local  
Labor Relations Board  
320 West Washington, Suite 500  
Springfield, Illinois 62701

Dear Mr. Hoffman:

I have your letter wherein you inquire whether a member of the Illinois Local Labor Relations Board (hereinafter referred to as "the Board"), in his private practice of law, may continue to represent a local school district in matters which include labor negotiations with labor organizations. For the reasons hereinafter stated, it is my opinion that his service on the Board will not prohibit the member generally from continuing to advise and represent the school district in his private capacity. Pursuant to statute, however, the member cannot represent the district as a representative in labor negotiations.

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As indicated, you have stated that the Board member in question is an attorney who maintains a private practice, and as such has served as counsel to a local school district on matters involving school law issues, as well as labor negotiations. He was appointed to the Board by the Cook County Board president pursuant to section 5 of the Illinois Public Labor Relations Act (hereinafter "the Act") (5 ILCS 315/5 (West 1992)), which also provides, in pertinent part:

" \* \* \*

(d) No member shall hold any other public office or be employed as a labor or management representative by the State or any political subdivision of the State or of any department or agency thereof, or actively represent or act on behalf of an employer or an employee organization or an employer in labor relations matters. \* \* \*

\* \* \*

"

Under subsection 5(d) of the Act, a Board member is prohibited from: (1) holding any other public office; (2) being employed as a labor or management representative by the State or any of its agencies; (3) being employed as a labor or management representative by any political subdivision of the State; or (4) actively representing or acting on behalf of an "employer" organization or an "employee" organization or an "employer" in labor relations matters.

Clearly, a school district is a political subdivision of the State. (People v. Farmers State Bank (1930), 338 Ill.

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134, 143; 10 ILCS 5/1-3(6) (West 1992).) The terms "employee" and "employer", however, are defined in the Act to exclude school districts and their employees, which are covered by the Illinois Educational Labor Relations Act (115 ILCS 5/1 et seq. (West 1992)). Specifically, subsections 3(n) and 3(o) of the Act (5 ILCS 315/3(n), (o) (West 1993 Supp.)) provide, in pertinent part:

" \* \* \*

(n) 'Public employee' or 'employee', for the purposes of this Act, means any individual employed by a public employer, including interns and residents at public hospitals, but excluding all of the following:

\* \* \* all employees of school districts  
\* \* \*

\* \* \*

(o) 'Public employer' or 'employer' means the State of Illinois; any political subdivision of the State, unit of local government or school district; \* \* \* provided, however, that the term 'Public employer' or 'employer' as used in this Act does not mean and shall not include \* \* \* educational employers or employers as defined in the 'Illinois Educational Labor Relations Act' enacted by the 83rd General Assembly as now or hereafter amended, except with respect to a state university in its employment of firefighters. \* \* \*

\* \* \*

(Emphasis added.)

Section 2 of the Illinois Educational Labor Relations Act defines "educational employer" to include the governing body of a public school district (115 ILCS 15/2 (West 1992)).

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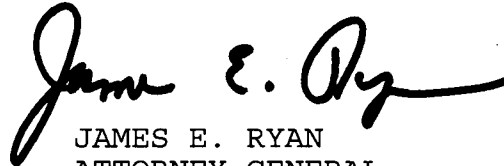
The General Assembly has the power to define statutory terms in any reasonable manner. (Ruva v. Mente (1991), 143 Ill. 2d 257, 263.) Although school districts and their employees were within the purview of the Act as originally drafted, the definitions were revised prior to enactment pursuant to the Governor's amendatory veto, which reflected the enactment, at approximately the same time, of legislation creating a separate board to deal with educational employment issues. (Journal of the Senate, 83rd General Assembly, State of Illinois, 1983 Sess., 6462; Remarks of Rep. Greiman, November 2, 1983, House Debate on Senate Bill No. 536, at 181-82.) Thus, as ultimately enacted, the Act specifically excludes school districts and their employees from the meaning of the terms "employer" and "employee", as used in the Act.

Notwithstanding the exclusion of school districts from the definition of "employers" in the Act, subsection 5(d) alternatively prohibits a member of the board from serving as a management representative of any political subdivision of the State. No provision of the Act excludes school districts from the term "political subdivision", as used in subsection 5(d) of the Act. Therefore, the nature of legal services which the board member may provide to the school district will necessarily be limited. He cannot, in my opinion, represent a school district in labor negotiations, because he would thereby be acting as a

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representative of management in contravention of subsection 5(d)  
of the Act.

Sincerely,

A handwritten signature in black ink, reading "James E. Ryan". The signature is written in a cursive style with a long horizontal flourish extending to the right.

JAMES E. RYAN  
ATTORNEY GENERAL