STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD
GENERAL COUNSEL

Village of Oak Lawn, Employer and Oak Lawn Professional Firefighters Association Local 3405, IAFF, Labor Organization	))))))))))	Case No. S-DR-16-005

DECLARATORY RULING

On May 3, 2016, the Village of Oak Lawn (Employer) filed a unilateral Petition for Declaratory Ruling pursuant to Section 1200.143 of the Rules and Regulations of the Illinois Labor Relations Board, 80 Ill. Admin. Code Parts 1200 through 1300. The Employer seeks a determination as to (1) whether its proposal on residency is a permissive, mandatory, or illegal subject of bargaining, (2) whether the proposal on residency offered by the Oak Lawn Professional Firefighters Association Local 3405, IAFF, ("Union") is a permissive or mandatory subject of bargaining, and (3) whether the Employer's proposal concerning paramedic certification/decertification is a mandatory or permissive subject of bargaining within the meaning of the Illinois Public Labor Relations Act, 5 ILCS 315 (2014). Both parties filed briefs.

I. Background

The Union is the exclusive representative of one historical unit of firefighters, paramedics, engineers, lieutenants, and officers. The Union and the Employer are parties to two expired collective bargaining agreements. One agreement covers firefighters, paramedics,

engineers, and lieutenants ("firefighter agreement") and the other agreement covers officers ("officer agreement"). Both agreements were effective from January 1, 2012 through December 31, 2014. The parties are negotiating a single successor agreement that will cover all the above-listed titles. On July 14, 2015, the Employer filed a Demand for Compulsory Interest Arbitration on July 14, 2015. The parties selected Steven Bierig as their interest arbitrator.

II. Relevant Statutory Provisions

The duty to bargain is defined in Section 7 of the Act which provides in relevant part:

> A public employer and the exclusive representative have the authority and duty to bargain collectively set forth in this Section.
>
> For the purpose of this Act, "to bargain collectively" means the performance of the mutual obligation of the public employer or his designated representative and the representative of the public employees to meet at reasonable times, including meetings in advance of the budget-making process, and to negotiate in good faith with respect to wages, hours and other conditions of employment, not excluded by Section 4 of this Act, or the negotiation of an agreement, or any question arising thereunder and the execution of a written contract incorporating any agreement reached if requested by either party, but such obligation does not compel either party to agree to a proposal or require the making of a concession.
>
> The duty "to bargain collectively" shall also include an obligation to negotiate over any matter with respect to wages, hours and other conditions of employment, not specifically provided for in any other law or not specifically in violation of the provisions of any law. If any other law pertains, in part, to a matter affecting the wages, hours and other conditions of employment, such other law shall not be construed as limiting the duty "to bargain collectively" and to enter into collective bargaining agreements containing clauses which either supplement, implement, or relate to the effect of such provisions in other laws.

5 ILCS 315/7 (2014).

Section 4 of the Act protects certain managerial rights as follows:

> Employers shall not be required to bargain over matters of inherent managerial policy, which shall include such areas of discretion or policy as the functions of the employer, standards of services, its overall budget, the organizational structure and selection of new employees, examination techniques and direction of employees. Employers, however, shall be required to bargain collectively with regard to policy matters directly affecting

> wages, hours and terms and conditions of employment as well as the impact thereon upon request by employee representatives.

5 ILCS 315/4 (2014).

However, Section 4 also contains a caveat of particular relevance to the question at issue:

> To preserve the rights of employers and exclusive representatives which have established collective bargaining relationships or negotiated collective bargaining agreements prior to the effective date of this Act, employers shall be required to bargain collectively with regard to any matter concerning wages, hours or conditions of employment about which they have bargained for and agreed to in a collective bargaining agreement prior to the effective date of this Act.

5 ILCS 315/4 (2014).

Section 15(a) of the Act provides, in relevant part:

> In case of any conflict between the provisions of this Act and any other law (other than Section 5 of the State Employees Group Insurance Act of 1971 and other than the changes made to the Illinois Pension Code by this amendatory Act of the 96th General Assembly), executive order or administrative regulation relating to wages, hours and conditions of employment and employment relations, the provisions of this Act or any collective bargaining agreement negotiated thereunder shall prevail and control.

5 ILCS 315/15(a) (2014).

Section 14(i) provides, in relevant part:

> In the case of fire fighter, and fire department or fire district paramedic matters, the arbitration decision shall be limited to wages, hours, and conditions of employment (including manning and also including residency requirements in municipalities with a population under 1,000,000, but those residency requirements shall not allow residency outside of Illinois) and shall not include the following matters: i) residency requirements in municipalities with a population of at least 1,000,000; ii) the type of equipment (other than uniforms and fire fighter turnout gear) issued or used; iii) the total number of employees employed by the department; iv) mutual aid and assistance agreements to other units of government; and v) the criterion pursuant to which force, including deadly force, can be used; provided, however, nothing herein shall preclude an arbitration decision regarding equipment levels if such decision is based on a finding that the equipment considerations in a specific work assignment involve a

> serious risk to the safety of a fire fighter beyond that which is inherent in the normal performance of fire fighter duties. Limitation of the terms of the arbitration decision pursuant to this subsection shall not be construed to limit the facts upon which the decision may be based, as set forth in subsection (h).
>
> The changes to this subsection (i) made by Public Act 90-385 (relating to residency requirements) do not apply to persons who are employed by a combined department that performs both police and firefighting services; these persons shall be governed by the provisions of this subsection (i) relating to peace officers, as they existed before the amendment by Public Act 90-385.
>
> To preserve historical bargaining rights, this subsection shall not apply to any provision of a fire fighter collective bargaining agreement in effect and applicable on the effective date of this Act; provided, however, nothing herein shall preclude arbitration with respect to any such provision.

5 ILCS 315/14(i) (2014).

Section 10-2.1-6(b) of the Illinois Municipal Code provides the following, in relevant part:

> § 10-2.1-6. Examination of applicants; disqualifications.
>
> (b) Residency requirements in effect at the time an individual enters the fire or police service of a municipality (other than a municipality that has more than 1,000,000 inhabitants) cannot be made more restrictive for that individual during his period of service for that municipality, or be made a condition of promotion, except for the rank or position of Fire or Police Chief.

65 ILCS 5/10-2.1-6(b) (2014).

Section 10-2.1-6.3 of the Illinois Municipal Code provides the following, in relevant part:

> § 10-2.1-6.3. Original appointments; full-time fire department.
>
> (c) Residency requirements in effect at the time an individual enters the fire service of a municipality cannot be made more restrictive for that individual during his or her period of service for that municipality, or be made a condition of promotion, except for the rank or position of fire chief and for no more than 2 positions that rank immediately below that of the chief rank which are appointed positions pursuant to the Fire Department Promotion Act.

65 ILCS 5/10-2.1-6.3(c) (2014).

III. Proposals

a. Residency

i. Employer's Proposal

All bargaining unit members are required to establish residency within fifty (50) miles of Village Hall (9446 S. Raymond Ave. Oak Lawn, IL) and within the State of Illinois within six months of the probation period for new-hires and six months of the issuance of Arbitrator Bierig's interest arbitration award, unless agreed otherwise by the Village of Oak Lawn. Residency as established in this Section is a condition of employment and failure to comply with this residency shall be cause for discipline.

ii. Union's Proposal

The Union proposes to maintain the status quo with respect to residency. Under the status quo, the contract contains no language addressing residency.

b. Paramedic Certification/Decertification Proposal

i. Employer's Proposal

Section 7.5 Discipline/Investigations

…As a general rule, the Village will follow principles of timely and progressive discipline, except where the offense is serious and substantial. ~~For all new firefighters hired after January 1, 2008,~~ The failure to ~~obtain, within a timeframe prescribed by the Village at the time of hire and to thereafter~~ maintain State of Illinois Paramedic and EMS System certification **as per the requirements established in Appendix B** shall result in the Fire Chief providing the employees with a reasonable time period under the circumstances to obtain the requisite licensure or certification, and the failure to do so within the extension period may subject the employee to disciplinary action….

APPENDIX B – AGREEMENT FOR THE ADMINISTRATIVE ORGANIZATION OF PARAMEDIC PROGRAM

It is the intent of this Agreement that we have formalization of the Paramedic Program, which has proven its worth to the residents as well as to the effective operation of the municipality. The following are points of this organization as mutually agreed upon:

(1) The training and education provided for a Paramedic is lengthy, as provided by Christ Hospital's current Emergency Medical System Training Program requirements. This is a significant investment for the Village as well as for the individuals involved. ~~In order to make it of value to the Village, all new Paramedics will sign an agreement with the Village to provide their services as a Paramedic for a period of four (4) years.~~ The Village realized that the employee has invested many hours or personal time for the betterment of the Fire Department; thus, upon successfully completing the Paramedic Course, the employee will have an option to overtime pay, for hours attended on personal time.

(2) **Maintenance of the employee's Paramedic certification is a condition of employment and failure to maintain that license will be cause for discharge. No employee with current Paramedic certification will be permitted to decertify. All employees who have a Paramedic certification are required to use that certification and cannot opt out of paramedic duties. If the Chief determines in the sound exercise of his discretion that more paramedics are needed, the Chief may order additional firefighters to obtain their certifications. Order will be given by reserve seniority within the appropriate rank (most junior employee ordered first).** ~~The present Paramedics will enter into a minimum two (2) year agreement to provide their services as Paramedics. After this two year term, a one year notice must be presented to the Fire Chief, in writing, if a member intends not to continue as a Paramedic. Obviously, the one year notice is an option for the Paramedic only. If the Village is dissatisfied with a Paramedic's services, he/she will be relieved of Paramedic duties, after Supervisory Board Review. It is also understood that one (1) year notice may be modified, after review of the Supervisory Board, and subject to approval by the Fire Chief, in order to adapt to a unique personnel situation.~~

….

(4) The Paramedics have been recognized for their particular services since the inception of this program in 1976; therefore, the Paramedics will receive a stipend in recognition of additional duties above those of a firefighter. The stipend will be reflected in the salary compensation scheduled where a firefighter/paramedic will receive a stated salary greater than that of a firefighter. Before any employee will receive this stipend, a budgeted vacancy must exist and it will be necessary to have received full certification as a Paramedic. The stipend will not be part of the pay during any preliminary training, including completion of Christ Hospital's current Emergency Medical System Training Program requirements. Having attained that certification, the stipend will commence with the next pay period.

Once an employee has attained the necessary Paramedic certification, it will be his responsibility to maintain the necessary continuing education hours needed for Paramedic recertification.

A paramedic who ~~decides~~ **decided** not to recertify after completing tem (10) years of services as a Paramedic will not forfeit his Paramedic stipend as long as he ~~gives~~ **gave** two (2) years' advance written notice not to recertify to the Fire Chief**, and as long as the Paramedic first took advantage of this benefit prior to the issuance of Arbitrator Bierig's award;** (which notice may **have been** ~~be~~ given at any time after completion of seven (7) years of service as a paramedic) his salary will remain frozen until his normal pay catches up to his current salary level. **This benefit shall not be available to any employee after the issueance of Arbitrator's Bierig's award because maintenance of a paramedic license will be a condition of employment.**

….

(5) Employees who have served as certified paramedics on the Oak Lawn Fire Department for thirteen (13) years or more shall receive an annual salary payment of $300.00 in addition to the Paramedic stipend set forth in Paragraph 4 above. If the employee continues servicing as a certified Paramedic in the Oak Lawn Fire Department after completing of the thirteen (1#) years of service, the employee shall receive both the $300.00 payment and the Paramedic stipend. If an employee ~~ceases~~ **ceased** to serve as a Paramedic in the Oak Lawn Fire Department after completion of thirteen (13) years of Paramedic Service (but continues in the employ of the Oak Lawn Fire Department in a bargaining unit position) **prior to issuance of Arbitrator Bierig's award**, the employee shall continue to receive the $300.000 annual payment and the employee will be protected by the "salary freeze" clause in paragraph 4 above. ~~Employees who are now active paramedics and who were in the original Oak Lawn Paramedic Program shall be deemed to have satisfied the thirteen (13) year requirement in the paragraph even if said employees have been paramedics for less than thirteen (13) years. However, if an employee ceases to serve as a Paramedic in the Oak Law Fire Department after completion of (20) years of Paramedic service, continues in the employ of the Oak Lawn Fire Department in a bargaining unit position, and provides to the Chief a signed, irrevocable letter of resignation in a form acceptable to the Chief a signed an effective on a date not more than one (1) year from the date that the employee ceases service as a Paramedic, that employee shall receive all salary, benefits and stipends that he or she would have received had he or she continued to serve as a Paramedic until the effective date of the employee's resignation. Such an employee shall not be required to ride the ambulance on a regular bases or counted as part of the Village's Paramedic contingent, but such an employee may be required to cover Paramedic duties as may be necessary on an occasional basis.~~

Each employee above the rank and classification of Firefighter (i.e., Fire Engineer, Fire Lieutenant and employees **previously** covered in the Officers' Agreement) shall receive an additional $1200.00 per year paramedic specialty pay, provided they obtain (or have obtained and maintained full certification as a paramedic. These employees are also covered by the terms set forth in this Appendix B.

ii. Union's Proposal

The Union proposes to maintain the status quo with respect to paramedic certification and decertification.

IV. Issues

The issues are the following: (1) whether the Union's proposal to maintain the status quo on residency is a permissive or mandatory subject of bargaining; (2) whether the Employer's residency proposal is a mandatory, permissive, or illegal subject of bargaining; and (3) whether the Employer's proposal on paramedic certification/decertification is a mandatory or permissive subject of bargaining.

The Employer asserts that the Union's proposal to omit residency requirements from the parties' contract is a permissive subject of bargaining because it would allow residency outside of Illinois. The Union counters that its proposal does not expressly allow residency outside Illinois and instead would render the contract silent on the issue of residency. In the alternative, Union argues that even if its proposal were read to allow residency outside of Illinois, Section 14(i) of the Act would not bar its award by the arbitrator because the Union represents a historical unit that was covered by an agreement with no residency requirement on the effective date of the Act.

The Employer asserts that its own proposal on residency is a mandatory subject of bargaining under Section 14(i) because it addresses residency and prohibits residency outside of Illinois. The Employer denies that it is an illegal subject of bargaining that confers fewer rights than granted under the Municipal Code. In the alternative, the Employer argues the duty to bargain preempts the Code pursuant to Section 15 of the Act and renders the Employer's

proposal mandatory in nature. The Union counters that the Employer's residency proposal is illegal because the Code bars the imposition of residency requirements that are more restrictive than those in place at the time an individual enters fire service. It argues that the Act does not preempt the Code because there is no conflict between the Act's broad duty to bargain and the Code's more specific prohibition against particular changes to residency requirements. In the alternative, the Union argues that the Employer's proposal is a permissive subject of bargaining because it seeks the Union's waiver of its rights under the Code to insist upon residency rules that are no more stringent that those in place at the time unit members began their employment.

The Employer argues that the Union's paramedic certification/decertification proposal is a permissive subject of bargaining under the Central City test. It denies that the Union's proposal covers a historical subject of bargaining over which the parties must continue to bargain by virtue of its inclusion in collective bargaining agreements that pre-date the Act. It further claims that the designation of the Union's proposal as a historical subject of bargaining would produce absurd and harmful results by allowing the Union to claim a "near monopoly" over the provision of emergency medical services. The Union counters that its proposal addresses a mandatory subject of bargaining because the Union represents a historical unit and the parties' collective bargaining agreements since 1981 have contained nearly identical paramedic certification/decertification provisions.

Finally, the Union moves for sanctions on the grounds that the Employer engaged in frivolous litigation by advancing the argument that paramedic certification/decertification is a permissive subject of bargaining, a position that the Employer allegedly knew was meritless. The Employer denies that it engaged in frivolous litigation and argues that sanctions are inappropriate.

V. Discussion and Analysis

a. Residency

i. Employer's Proposal

The Employer's proposal on residency is a mandatory subject of bargaining because it is neither illegal nor permissive.

A proposal that is "specifically in violation of the provisions of any law" is an illegal subject of bargaining, and Section 7 of the Act excludes such matters from the duty to bargain. 5 ILCS 315/7; Vill. of Franklin Park v. Illinois State Labor Relations Bd., 265 Ill. App. 3d 997, 1005 (1st Dist. 1994); Vill. of Oakbrook, 13 PERI ¶ 2025 (IL LRB0SP 1997). By contrast, a proposal that seeks the waiver of a statutory right is a permissive subject of bargaining. Vill. of Midlothian, 29 PERI ¶ 125 (IL LRB-SP 2013); Vill. of Wheeling, 17 PERI ¶ 2018 (IL LRB SP 2001); Cnty. of Cook (Cook Cnty. Hosp.), 15 PERI ¶ 3009 (IL LLRB 1999); Bd. of Trustees of the Univ. of Ill., 8 PERI ¶ 1014 (IL ELRB 1991), aff'd by 244 Ill. App. 3d 945 (4th Dist. 1993); Bd. of Regents of the Regency Universities System (Northern Ill. Univ.), 7 PERI ¶ 1113 (IL ELRB 1991). Parties may agree to bargain over permissive subjects, but they are not required to do so. Cnty. of Williamson and Sheriff of Williamson Cnty., 15 PERI ¶ 2003 (IL SLRB 1999).

The Employer's proposal is not an illegal subject of bargaining because it does not violate the Municipal Code. The Municipal Code prohibits a municipality from establishing residency requirements than are more restrictive than "residency requirements in effect" at the time an individual enters the fire service. Here, the Employer never had a "residency requirement in effect," and the Employer's proposed residency requirement therefore cannot be

more restrictive than any prior "residency requirement in effect" where there was none. Contrary to the Union's anticipated contention, the absence of a residency mandate cannot reasonably be construed as an affirmative "requirement" that is "in effect" under the terms of the Municipal Code. Accordingly, the Employer's proposal of a residency requirement does not does not violate the Municipal Code and does not in turn render the Employer's proposal an illegal subject of bargaining.

Likewise, the Employer's proposal does not seek the Union's waiver of its statutory rights under the Municipal Code because the Employer's proposal is consistent with the Employer's obligations under the Code, as discussed above.[1]

Thus, the Employer's residency proposal is a mandatory subject of bargaining.

ii. Union's Proposal

The Union's proposal to maintain the status quo on residency is a permissive subject of bargaining because the proposal allows residency outside of Illinois and any arbitration decision that awarded the Union's proposal would contravene Section 14(i) of the Act.

The Board applies the Central City test to determine whether a topic is a mandatory subject of bargaining, unless the topic is specifically excluded from interest arbitration under Section 14(i) of the Act. Central City Educ. Ass'n, IEA/NEA v. Ill. Educ. Labor Rel. Bd., 149 Ill. 2d 496, 523 (1992); Vill. of Oak Lawn v. Ill. Labor Rel. Bd., State Panel, 2011 IL App (1st) 103417 ¶ 23. Where Section 14(i) specifically excludes a topic from interest arbitration, application of the Central City test is unnecessary because such specifically excluded topics

[1] I do not address whether the provisions of the Code set forth a right that the Union could waive if the Employer offered a proposal that were inconsistent with its obligations.

cannot be mandatory bargaining subjects. Id.; see also Cnty. of Cook v. Ill. Labor Rel. Bd., Local Panel, 347 Ill. App. 3d 538, 545 (1st Dist. 2004).

A proposal that allows residency outside of Illinois is a permissive subject of bargaining under Section 14(i) of the Act because it is excluded from an interest arbitrator's award. 5 ILCS 315/14(i). Section 14(i) lists the topics to which a decision "shall be limited," which includes residency requirements, but it also provides that "those residency requirements shall not allow residency outside of Illinois." 5 ILCS 315/14(i). Accordingly, Section 14(i) of the Act expressly excludes from interest arbitration any residency requirements that allow residency outside of Illinois. Id. In turn, a proposal that allows residency outside of Illinois is a permissive subject of bargaining.

As a preliminary matter, Section 14(i) of the Act applies to the Union's proposal because the exception to Section 14(i) is inapplicable. That exception provides the following: "[t]o preserve historical bargaining rights, this subsection shall not apply to any provision of a fire fighter collective bargaining agreement in effect and applicable on the effective date of this Act; provided, however, nothing herein shall preclude arbitration with respect to any such provision." 5 ILCS 315/14(i). The Union claims that its proposal falls within this exception because the Union represents a historical unit and none of the Union's contracts ever included a residency requirement. However, the Union's own argument demonstrates that residency was not a "provision of a fire firefighter collective bargaining agreement in effect on the effective date of [the] Act," and that the exception to the requirements of Section 14(i) of the Act therefore cannot apply.[2]

[2] The absence of residency language in all of the parties' prior contracts also precludes the application of Section 4's protection for historical bargaining subjects. Section 4 requires employers of historical units to "bargain over any matter regarding hours or conditions of employment about which they have bargained for ***and agreed to in a collective bargaining agreement*** prior to the effective date of this Act,

Applying Section 14(i) of the Act here, the Union's proposal for the omission of language addressing residency is a permissive subject of bargaining because it is equivalent to a residency requirement that allows residency outside of Illinois. As a practical matter, if the arbitrator awarded the Union's proposal, the contract would contain no restriction on residency at all. The absence of any restriction on residency is, in turn, a grant of permission to firefighters allowing them to live outside of Illinois.

More importantly, if the arbitrator granted the Union's proposal, the arbitrator's award would expressly allow residency outside of Illinois and would therefore contravene Section 14(i) of the Act, even if the contract contained no such express allowance. The award and the contract are separate—the award sets forth the arbitrator's reasoning while the contract distills terms the arbitrator selected or formulated. 5 ILCS 315/14(n) (noting that the terms of an award are to be included in a separate agreement, which is to be presented for ratification by an employer's governing body). If the arbitrator adopted the Union's proposal, his award would inevitably discuss the meaning and impact of the Union's proposed omission of residency language. The arbitrator would explain that his adoption of the Union's proposal would leave no restriction on residency and would thereby allow residency outside of Illinois. The contract's ultimate silence on the issue of residency would not cure the fact that an arbitration award adopting the Union's proposal would necessary address residency and expressly allow residency outside of Illinois.[3]

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except as provided in Section 7.5." 5 ILCS 315/4 (emphasis added). Here, the parties never agreed to language in a collective bargaining agreement that allows residency outside of Illinois. Indeed, the Union does not even claim that the parties' affirmatively bargained over the omission of a residency requirement in forming any of their prior contracts. Accordingly, the Union's proposal for the omission of language addressing residency is not a historical subject of bargaining.

[3] If the Union's residency proposal does not seek to allow bargaining unit members to reside outside of Illinois, as the Union suggests, then the Union may achieve the same goal by modifying its proposal to allow residency anywhere within the State. Such a proposal would not be a permissive subject of

Thus, the Union's proposal for the omission of language from the contract addressing residency is a permissive subject of bargaining.

b. Paramedic Certification/Decertification

The topic of paramedic certification/decertification is a mandatory subject of bargaining in this case because the Employer and the Union established a collective bargaining relationship prior to the effective date of the Act with respect to the unit at issue and historically bargained over paramedic certification/decertification.

Section 4 of the Act provides that "[e]mployers shall not be required to bargain over matters of inherent managerial policy, which shall include such areas of discretion or policy as the functions of the employer, standards of services, its overall budget, the organizational structure and selection of new employees, examination techniques and direction of employees." 5 ILCS 315/4. However, it sets forth two exceptions to the general rule. First, employers are required to "bargain collectively with regard to policy matters directly affecting wages, hours and terms and conditions of employment as well as the impact thereon upon request by employee representatives." Id. Second, employers are "required to bargain collectively with regard to any matter concerning wages, hours or conditions of employment about which they have bargained for and agreed to in a collective bargaining agreement prior to the effective date of this Act." Id. This latter exception preserves the rights of employers and exclusive representatives which have established collective bargaining relationships or negotiated collective bargaining agreements prior to the Act's effective date. Id. The Board has interpreted this provision to mean that Section 4 preserves the rights of labor organizations representing historical units by requiring

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bargaining under Section 14(i) of the Act. However, I make no determination as to whether such a proposal would be a mandatory subject of bargaining under the Central City test.

employers to bargain over all subjects that they had previously bargained, despite the fact that the subject may be one that the Act now deems a management right. State of Ill. Dep't of Cent. Mgmt. Serv. (Fraternal Order of Police), 3 PERI ¶ 2026 (IL SLRB 1987).

Here, the unit represented by the Union is a historical unit. Vill. of Oak Lawn, 32 PERI ¶ 137 (IL LRB-SP ALJ 2015). Furthermore, the Employer does not dispute that the parties bargained over paramedic certification/decertification before the effective date of the Act and through the date upon which it became effective (July 1, 1984). Pursuant to the terms of the parties' 1982 agreement, the agreement remained in full force and effect until the parties ratified a successor agreement, which occurred sometime in 1992. Notably, the parties continued bargaining over paramedic certification/decertification in each and every agreement effective between 1992 and 2014. Thus, the paramedic certification/decertification is a mandatory subject of bargaining.

There is no merit to the Employer's claim that the Central City test renders the Union's proposal permissive because in this case, where the proposal addresses a historical subject, the Employer is required to bargain over it regardless of the outcome of the Central City test. State of Ill. Dep't of Cent. Mgmt. Serv. (Fraternal Order of Police), 3 PERI ¶ 2026 (IL SLRB 1987)(post-Act determination that subject addresses management right does not eliminate the obligation to bargain if it subject is a historical one).

There is likewise no merit to the Employer's claim that the topic of paramedic certification/decertification is excluded from Section 4's protections because it allegedly has no impact on employees' conditions of employment. Paramedic certification/decertification clearly does impact employees' terms and conditions of employment because employees who fail to maintain that certification are subject to discipline. The Employer's managerial interest in

requiring certification does not alter the proposal's impact on employees who fail to comply with the Employer's requirement. State of Ill. (Dep't of Military Affairs), 12 PERI ¶ 2004 (IL SLRB 1995), aff'd by unpub. order, 13 PERI ¶ 4005 (1996)(requirement that employees hired after a certain date be active members of the Illinois National Guard at the time they were hired and remain active members during their employment was found to be a term and condition of employment since an employee who failed to maintain National Guard membership was subject to discharge); Vill. of Wilmette, 18 PERI ¶ 2045 (IL LLRB G.C. 2002) (paramedic decertification proposal impacted employees' terms and conditions of employment where paramedic certification was a requirement for continued employment; finding proposal permissive on other grounds); Vill. of Lombard, 15 PERI ¶ 2007 (II SLRB G.C. 1999)(same).[4]

Thus, the topic of paramedic certification/decertification is a mandatory subject of bargaining in this case.

c. Sanctions

The Union's motion for sanctions is denied because neither the Act nor the rules allow the award of sanctions for positions taken in petitions for Declaratory Ruling. The sole provision in the Act that addresses sanctions appears in Section 11, which covers "unfair labor practice procedures." 5 ILCS 315/11(c). The Board's rules further clarify that the right to seek sanctions is limited to "any party to an unfair labor practice proceeding." 80 Ill. Admin. Code 1200.90(d). In addition, the Board has denied the imposition of sanctions outside the unfair labor practice context. County State's Attorney, 25 PERI ¶ 1 (IL LRB-SP 2009)(denying motion for sanctions stemming from allegations or denials made in the context of representation

[4] The Employer's policy arguments, although compelling, are unavailing in light of the black letter law discussed above. However, the Employer may present them to the arbitrator when arguing in favor of its paramedic certification/decertification proposal.

proceedings); see also Northern Ill. Univ., 15 PERI ¶ 1084 (IL ELRB 1999)(Illinois Educational Labor Relations Board interpreted its similar rules in a like manner). The Declaratory Ruling process is distinct from the unfair labor practice charge process and the Union's motion for sanctions is therefore denied.

Issued in Springfield, Illinois, this 1st day of July, 2016.

STATE OF ILLINOIS
ILLINOIS LABOR RELATIONS BOARD

/s/ Kathryn Zeledon Nelson
Kathryn Zeledon Nelson
General Counsel