

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

Illinois Fraternal Order of Police Labor Council,	)	)
	)	
Charging Party,	)	
	)	Case No. S-CA-22-067
and	)	
	)	
Village of Sauk Village,	)	
	)	
Respondent.	)	

**ORDER**

On August 3, 2023, Administrative Law Judge Michelle Owen, on behalf of the Illinois Labor Relations Board, issued a Recommended Decision and Order in the above-captioned matter. No party filed exceptions to the Administrative Law Judge’s Recommended Decision and Order during the time allotted, and at its November 9, 2023 public meeting, the Board, having reviewed the matter, declined to take it up on its own motion.

**THEREFORE**, pursuant to Section 1200.135(b)(5) of the Board's Rules and Regulations, 80 Ill. Admin. Code §1200.135(b)(5), the parties have waived their exceptions to the Administrative Law Judge’s Recommended Decision and Order, and this non-precedential Recommended Decision and Order is final and binding on the parties to this proceeding.

**Issued in Chicago, Illinois, on November 9, 2023.**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
LOCAL PANEL**

/s/ Helen J. Kim \_\_\_\_\_  
**Helen J. Kim**  
**General Counsel**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

Illinois Fraternal Order of Police Labor	)	
Council,	)	
	)	
Charging Party,	)	
	)	
and	)	Case No. S-CA-22-067
	)	
Village of Sauk Village,	)	
	)	
Respondent.	)	

**ADMINISTRATIVE LAW JUDGE’S RECOMMENDED DECISION AND ORDER**

On December 30, 2021, David Melnyczenko (Melnyczenko) filed an unfair labor practice charge with the Illinois Labor Relations Board’s State Panel (Board) in Case No. S-CA-22-067, alleging that the Village of Sauk Village (Respondent) violated Section 10(a) of the Illinois Public Labor Relations Act (Act) 5 ILCS 315 (2019), as amended. On May 3, 2022, Illinois Fraternal Order of Police Labor Council (Charging Party) filed an amended unfair labor practice charge in this case to take the place of Charging Party. The charge was investigated in accordance with Section 11 of the Act. On November 16, 2022, the Board’s Executive Director issued a Complaint for Hearing and Partial Dismissal. On December 1, 2022, the Respondent timely filed an answer to the Complaint for Hearing.

On February 14, 2023, the undersigned issued an order setting the matter for hearing on May 2 and 3, 2023. On April 3, 2023, the parties requested that a conference call be scheduled between the parties and the undersigned. On April 11, 2023, the parties and the undersigned participated in a conference call, during which, the parties agreed to cancel the scheduled hearing dates to allow time for the parties’ interest arbitration matter to be resolved. That same day, I requested that the parties provide me with a status update by July 14, 2023. On July 14, 2023, the parties requested a two-week extension to provide a status update, and I granted the request. On July 28, 2023, the parties requested an extension to August 2, 2023, to provide a status update, and I granted the request. On August 1, 2023, the parties requested that I defer the charge in this case to the grievance procedure in the parties’ collective bargaining agreement. The parties noted that

the Respondent had waived procedural objections, if any, and had further confirmed its willingness to participate in the grievance arbitration procedure.

The parties' joint motion to defer this case to the grievance process is granted for the reasons set forth below. Section 11(i) of the Act gives the Board discretionary authority to defer unfair labor practice charges. Section 11(i) provides:

If an unfair labor practice charge involves the interpretation or application of a collective bargaining agreement and said agreement contains a grievance procedure with binding arbitration as its terminal step, the Board may defer the resolution of such dispute to the grievance and arbitration procedure contained in said agreement.

5 ILCS 315/11(i). In PACE Northwest Division, 10 PERI ¶ 2023 (IL SLRB 1994), the Board stated that “the policy of deferral, as enunciated in Section 11(i) of the Act, . . . stands as a recognition of the fact that the collective bargaining relationship between the parties subject to the Act is best nurtured by encouraging them to resolve their disputes, whenever possible, through their voluntary and agreed upon grievance and arbitration procedure. Another important reason which supports the policy of deferral is that that policy helps to avoid the costs, in terms of both time and money, of conducting an unfair labor practice hearing which the parties own grievance and arbitration process may ultimately render unnecessary.” *Id.* citing North Shore Sanitary Dist., 9 PERI ¶ 2014 (IL SLRB 1993). In furtherance of this objective, the Board has adopted three tests to determine whether deferral is appropriate: the Collyer test applies where the union has not yet initiated a contract grievance. Collyer Insulated Wire, 192 NLRB 837 (1971); State of Ill. (Dep’t of Central Mgmt. Servs.), 9 PERI ¶ 2032 (IL SLRB 1993). The Dubo test applies in cases where the union has voluntarily initiated a grievance and is involved in the grievance arbitration process. Dubo Manufacturing Corp., 142 NLRB 431 (1963); City of Mount Vernon, 4 PERI ¶ 2006 (IL SLRB 1988). The Spielberg/Olin test applies where an arbitrator has already heard the grievance and has issued an award. Spielberg Manufacturing Co., 112 NLRB 1080 (1955); Olin Corp., 268 NLRB 573, (1984); City of Alton, 22 PERI ¶102 (IL LRB-SP 2006).

Here, the parties have jointly requested that the case be deferred to arbitration. Further, the Respondent has confirmed that it waives procedural objections, if any, and has further confirmed its willingness to participate in the grievance arbitration procedure. In sum, the parties' joint motion to defer this case to the grievance arbitration process is granted.

## **I. RECOMMENDED ORDER**

IT IS HEREBY ORDERED that the present unfair labor practice charge shall be deferred to arbitration. The Complaint in Case No. S-CA-22-067 will be held in abeyance until the parties have fully completed the grievance arbitration process. Within 30 days after the termination of that process, a party may notify the Board of the termination and request that the Board review the award to determine whether to defer to the arbitrator's disposition. A party's request should contain a copy of the award along with a detailed statement of the facts and circumstances hearing on whether the proceedings were fair and regular and whether the award is consistent with the purposes and policies of the Act. If a party fails to make such a request within the time specified, the Board may dismiss the Complaint upon request of another party or on the Board's own motion. It is also ordered that the parties inform the Board of any significant delay in the arbitration process or of any resolution of the matter prior to issuance of an award.

## **II. EXCEPTIONS**

Pursuant to Section 1200.135 of the Board's Rules, parties may file exceptions to the Administrative Law Judge's Recommended Decision and Order and briefs in support of those exceptions no later than 30 days after service of this Recommendation. Parties may file responses to exceptions and briefs in support of the responses no later than 15 days after service of the exceptions. In such responses, parties that have not previously filed exceptions may include cross-exceptions to any portion of the Administrative Law Judge's Recommendation. Within seven days from the filing of cross-exceptions, parties may file cross-responses to the cross-exceptions. Exceptions, responses, cross-exceptions, and cross-responses must be filed with the Board's General Counsel, at 160 North LaSalle Street, Suite S-400, Chicago, Illinois 60601-3103, or to the Board's designated email address for electronic filings, at [ILRB.Filing@Illinois.gov](mailto:ILRB.Filing@Illinois.gov). All filings must be served on all other parties. Exceptions, responses, cross-exceptions, and cross-responses will not be accepted at the Board's Springfield office. The exceptions and/or cross-exceptions sent to the Board must contain a statement of listing the other parties to the case and verifying that the exceptions and/or cross-exceptions have been provided to them. The exceptions and/or cross-exceptions will not be considered without this statement. If no exceptions have been filed within the 30-day period, the parties will be deemed to have waived their exceptions.

**Issued at Chicago, Illinois this 3rd day of August, 2023**

**STATE OF ILLINOIS  
ILLINOIS LABOR RELATIONS BOARD  
STATE PANEL**

**/s/ Michelle N. Owen**

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**Michelle N. Owen  
Administrative Law Judge**