

# IECC Counter-Proposals to IECCEA’s September 5, 2024 Proposals

## ***2023-2024 Successor Contract IECC Board of Trustees and IECCEA***

### IECC Counter-Proposals to IECCEA’S September 5, 2024 Proposals

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## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

- 1) **Section 2.3.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

### Section 2.3 Outside Employment.

A full-time faculty member shall not, during the academic year, be employed for remuneration by employers other than the District, except with the approval of the Chief Executive Officer and the Board. Anyone who wants approval must make written application to the Board through the Chief Executive Officer on the standard form entitled "Request for Approval of Proposed Non-College Employment." It may be granted only when it appears that such activity will not interfere with the performance of District duties or impair the usefulness of the faculty member. Activities will be reported at the end of the year on the standard form entitled "Report of Non-College Employment Performed".

*Rationale: The Board does not have the legal authority to dictate what a faculty member does in their own time. This is a conditional waiver that the Association no longer agrees to accept.*

*The Association rejects the Board counterproposal. This counterproposal goes beyond the scope of the language, the proposal and matter regarding "outside employment". In fact, the BOT's counter indicates that approval will not be given, it stipulates the Chancellor will only consider the member's request. The Board does not have the legal authority to restrict, prohibit nor direct faculty during their personal time including but not limited to working for another college employer or non-college employer outside of their employment with IECC. The counter further expands its scope into evaluating or assessing employees outside of the evaluative process using "the primary" or essential faculty job duties or otherwise instead of District duties which are inherently different. To define or indicate specific job duties as essential ("primary") functions to perform the job involves an agreement between the parties (BOT and Association) concerning as to what essential duties the job entails and it is to be bargained. Job duties, assessing or evaluating members (evaluation) are members' terms and conditions of employment, which are mandatory subjects. District job duties versus a member's specific job duties are vitally different. Members have defined work hours, work days and work year per the contract and Illinois School Code 110 ILCS 805/3-16. This is not a condition of employment nor does it align with Illinois statutes. We no longer agree to this provision which diminishes our rights and benefits afforded by the contract, the ILERA or state and federal laws.*

*At the November 3, 2023 bargaining session, the Association specifically requested the legal reference permitting the District to do so other than the conditional waiver of agreement between the respective parties. The District does not compensate faculty for said off-duty time nor does it have the purview to dictate faculty members' activities outside of their workday. To date, none has been provided for this language.*

*This is a non-negotiable item and the District cannot compel, require nor mandate these terms.*

**IECC Counter-Proposal and Rationale:** Secondary employment policies like the one described in Section 2.3 are mandatory subjects of bargaining. *See City of E. St. Louis, 3 PERI ¶ 2011 (IL SLRB 1987); accord County of Cook & Sheriff, 32 PERI ¶ 70 (ILRB-SP 2015).* Any refusal by IECCEA to bargain over

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the retention of Section 2.3 in its current format is *per se* bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act.

Without waiving this legal position, IECC has already proposed the deletion of Section 2.3 as part of IECC's September 5, 2024 economic package proposal. See that package for IECC's rationale.

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2) **Section 2.13.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

**Section 2.13 Academic Faculty Rank.**

*The Association rejects the Board proposal. The Association counter-proposes the following language to align with the Illinois School Code of IL Community College Public Act and the negotiated provisions and IECC system for Faculty Academic Rank and its respective terms and provisions.*

Determination of faculty rank is based on continued education, experience, longevity, and review which shall include objective evidence of excellence in the delivery of instruction; service to the college and/or District and the profession; and service to the community.

Placement is as follows:

Rank	Eligibility
Instructor	All bargaining-unit faculty members initial placement unless otherwise determined at hire*.
Assistant Professor	Faculty receive this rank upon being awarded tenure, having completed 5 3 continuous years at IECC full-time teaching, and have an earned Bachelor’s degree <b>or the equivalent educational level as defined in Section 9.9.3.</b>
Associate Professor	Faculty are eligible for this rank if they are tenured, have completed 10 6 continuous years at IECC full-time teaching, have an earned Bachelor’s degree and 57.6 C.E.U.’s** or earned Master’s degree <b>or the equivalent educational level as defined in Section 9.9.3.</b> Faculty must apply for this rank and pass review of the Faculty Rank Committee***.
Professor	<p>Faculty are eligible for this rank if they are tenured, have completed 15 12 continuous years at IECC full-time teaching, have an earned either:</p> <p><b>The equivalent educational level to a Master’s degree plus 18 graduate hours, as defined by Section 9.9.3 or</b></p> <p>A Bachelor’s degree and an additional 28.8 C.E.U.’s** beyond the 57.6 required for the rank of Associate Professor, or</p> <p>A Master’s degree plus 18 graduate hours in a single academic discipline.</p> <p>Faculty must apply for this rank and pass review of the Faculty Rank Committee***. <i>On the effective date of this contract, any full-time faculty member who has been a full-time faculty member prior to September 1, 2002, will not have to satisfy 18 graduate hours in a single academic discipline beyond a Master’s degree to be eligible for this rank if they are tenured, have completed 15 continuous years at IECC full-time teaching and have an earned Master’s degree. Any full-time faculty member who became a full-time faculty member after</i></p>

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	<i>September 1, 2002, must have 18 graduate hours in a single academic discipline beyond their Master's degree.</i>
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Faculty members who want to apply for the rank of Associate Professor or Professor must submit their application to the **Executive** Director of Human Resources, either in writing or electronically, by mid-term of the Spring semester.

A faculty member's ranking will be determined 60 days after the last instructional day in May each academic year.

\*The Administration may confer a rank during initial hiring that recognizes prior higher education, teaching experience and previous rank held at other respective institutions.

\*\*All C.E.U. requests intended for use in the academic rank process, regardless of when they were earned, must be pre-approved through the Dean of Instruction and the District Human Resources Department. C.E.U.'s submitted for promotion in faculty rank must be within the faculty member's discipline or related to teaching and learning in higher education. C.E.U.'s (or appropriate academic courses) offered through IECC will be made available to bargaining unit faculty with a full waiver of tuition and fees.

\*\*\*A committee on rank will be established to consider applications for promotion to the rank of Associate Professor and Professor. The Faculty Rank Committee shall consist of 2 **Vice Chancellors/Presidents**, 2 Deans of Instruction, **and** the **Executive** Director of Human Resources, as appointed by the Chancellor, **and** four Faculty Members, as appointed by the Association President, **and the Association President or his designee**. The committee shall pass an applicant for higher rank based on a simple majority vote. The Faculty Rank Committee shall meet during the spring semester and the summer session to consider applications. The decision of the committee is final.

~~The Academic Rank of Instructor and Assistant Professor will be effective with the ratification of the Faculty Agreement. If awarded, the Academic Ranks of Associate Professor and Professor will be effective following the Summer 2022 review by the Academic Rank Committee. Any faculty member awarded the rank of Associate Professor or Professor during the Summer 2022 review will receive the Associate Professor/Professor Summer Rate pay in a retroactive payment for Summer 2022.~~

***Rationale: Faculty rank should be open to both transfer and CTE faculty members. Since a mechanism is already in place that equates CEU's to educational levels (Section 9.9.3), it can be utilized for faculty rank as well. We, the faculty, have heard repeatedly that the BOT wants there to be more shared governance. Thus, an equal number of faculty members and administrators on the faculty rank committee is consistent with that.***

**IECC Response:** IECC proposed the acceptance of these proposed modifications as part of IECC's September 5, 2024 economic package proposal. If that package is rejected by the Association, IECC proposes that the original language of Section 2.13 be rolled over into the parties' successor contract.

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- 3) **Section 5.0.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

*We no longer agree to this provision which diminishes our rights and benefits afforded by the negotiated provisions of the contract, the ILERA or state and federal laws.*

### ARTICLE V - ASSOCIATION/BOARD RELATIONS

**Section 5.0 Non-discrimination.** In accordance with applicable federal and state law, neither the Board nor the Association shall discriminate on the basis of a full-time faculty member's race, color, sex, sexual orientation, age, marital status, religious affiliation, veteran status, national origin, disability, genetic information, or any other protected category. Any disagreement concerning the interpretation and application of this paragraph shall be resolved through the appropriate federal or state agency or court ~~rather than~~ or through the grievance procedure set forth in this Agreement.

Inquiries regarding the interpretation of applicability of this section may be made to the Title IX/ADA Coordinator, 320 East North Avenue, Noble, IL 62868; (618) 393-7508

**IECC Counter-Proposal and Rationale:** IECCEA agreed as part of the parties' May 30, 2023, ground rules that "no new items shall be submitted for negotiations by either party" after the parties submit their respective "full package of proposals for collective bargaining." IECCEA never included any proposed modifications to Section 5.0 in the initial "full package of proposals" that it submitted to IECC back in May 2023. As a result, the above proposed modification to Section 5.0 violates the parties' ground rules and constitutes bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act. Moreover, by virtue of the parties' ground rules, IECCEA has effectively agreed to roll over Section 5.0 into the parties' successor contract.

As a result, IECC is unwilling to agree to deviate from its ground rules and expects that the original language of Section 5.0 will be rolled over into the parties' successor contract.

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- 4) **Section 6.1.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

### ARTICLE VI - GRIEVANCE PROCEDURE

**Current Language:**

**Section 6.1 Definition of Days.** Days are defined as days in which the Board District Central Office is normally open to conduct business.

*The Association proposes the following changes to align with the faculty workdays and academic calendar of the unit contrary to the schedule of the Board District Central Office.*

**Section 6.1 Definition of Days.** Days are defined as faculty work days of service of the academic year in which the Board District Central Office is normally open to conduct business.

*Faculty members are not required to be in attendance based on the schedule of the Board District Central Office. The terms of days throughout the Agreement refer to faculty workdays of service unless specified as calendar days (Reduction-in-Force).*

**IECC Counter-Proposal and Rationale:** IECCEA agreed as part of the parties' May 30, 2023, ground rules that "no new items shall be submitted for negotiations by either party" after the parties submit their respective "full package of proposals for collective bargaining." IECCEA never included any proposed modifications to Section 6.1 in the initial "full package of proposals" that it submitted to IECC back in May 2023. As a result, the above proposed modification to Section 6.1 violates the parties' ground rules and constitutes bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act. Moreover, by virtue of the parties' ground rules, IECCEA has effectively agreed to roll over Section 6.1 into the parties' successor contract.

As a result, IECC is unwilling to agree to deviate from its ground rules and hereby expects that Section 6.1 will remain in its original format for the parties' successor contract.

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5) **Section 9.9.2.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

## Article IX. Compensation

### Current Language:

#### Section 9.9.2 Movement Between Education Levels.

If, prior to the District’s first instructional day in September, a full-time faculty member covered by this Agreement submits official transcripts reflecting earned hours and/or degrees previously approved in writing by the District Human Resources Office, sufficient for movement from one educational level to another, said faculty member shall receive in his/her September payroll check the applicable prorated salary increase as set forth in the Educational Level Change Chart below:

<u>Educational Level Change</u>	<u>Salary Increase</u>
From Below AA to AA	<u>1000.00</u>
From AA to AA + 32	<u>1000.00</u>
From AA + 32 to BA	<u>1000.00</u>
From BA to BA + 16	<u>1000.00</u>
From BA + 16 to MA	<u>1000.00</u>
From MA to MA + 12	<u>1000.00</u>
From MA + 12 to MA + 24	<u>1000.00</u>
From MA + 24 to MA + 36	<u>1000.00</u>
From MA + 36 to MA + 48	<u>1000.00</u>
From MA + 48 to Ph.D.& Ed.D.	<u>2000.00</u>

*The Association rejects the Board counter and counter proposes the following language:*

#### Section 9.9.2 Movement Between Education Levels.

If, prior to the District’s first instructional day in September, a full-time faculty member covered by this Agreement submits official transcripts reflecting earned hours and/or degrees previously approved in writing by the District Human Resources Office, sufficient for movement from one educational level to another, said faculty member shall receive in his/her September payroll check the applicable prorated salary increase as set forth in the Educational Level Change Chart below:

<u>Educational Level Change</u>	<u>Salary Increase</u>
From Below AA to AA	<u>1000.00</u>
From AA to AA + 32	<u>1000.00</u>
From AA + 32 to BA	<u>1000.00</u>
From BA to BA + 16	<u>1000.00</u>
From BA + 16 to MA	<u>1000.00</u>
From MA to MA + 12	<u>1000.00</u>
From MA + 12 to MA + 24	<u>1000.00</u>
From MA + 24 to MA + 36	<u>1000.00</u>
From MA + 36 to MA + 48	<u>1000.00</u>
From MA + 48 to Ph.D.& Ed.D.	<u>2000.00</u>

#### Section 9.9.2 Movement Between Educational Levels



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If, prior to the District's first instructional day in September, a full-time faculty member covered by this Agreement submits official transcripts or other documentation reflecting earned hours, CEU's, and/or degrees previously approved in writing by the District Human Resources Office, sufficient for movement from one educational level to another, said faculty member shall receive in his/her September payroll check the applicable prorated salary increase as set forth in the Educational Level Change Chart below: **salary schedule, Appendix A – Faculty Salary Schedule.**

For example, a faculty member with an MA and 12 years of experience at step 11 (\$58,570) who earns 12 credit hours during the 2023-2024 academic year will advance one step from step 11 to step 12 and move to the next adjacent educational degree lane or column, master's degree +12 (MA+12) (\$63,725) of the salary schedule for the 2024-2025 academic year.

*Rationale: Eliminating educational level increases is bereft of logic. New faculty are initially placed by their educational level and prior experience. It makes no sense whatsoever to cease placing any value on them once a faculty member is hired. It merely demonstrates that current faculty members, especially senior ones, are neither respected nor valued. In addition, it runs counter to our mission as an institution for higher learning. Additional studies in one's field, a related field, or in teaching methods benefit the students and therefore the institution.*

**IECC Response:** IECC rejected these proposed modifications to Section 9.9.2 as part of IECC's September 5, 2024 economic package proposal. Please refer to that economic package proposal for IECC's rationale.

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- 6) **Section 9.9.5.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

### **Article IX. Compensation**

#### **Current Language:**

**Section 9.9.5 Initial Placement.** The salary of new faculty members in an appropriate salary range shall be determined by their educational level, prior experience, if any, and present salary, if any, provided that no new faculty members shall be placed beyond the maximum or below the minimum of the appropriate educational level for the hiring ranges in Appendix A.

Educational level assignments: Below AA, AA, AA+32, BA, BA+16, MA, MA+12, MA+24, MA+36, MA+48, PhD. New faculty will be placed at the appropriate level, as determined by the Board, according to their educational preparation as indicated by transcripts and other documentation.

Initial placement and educational level change may be waived at the discretion of the Board of Trustees upon recommendation of the President, District Director of Human Resources, and the Chancellor.

#### ***The Association rejects the Board's counter proposal and counters:***

**Section 9.9.5 Initial Placement.** The salary of new faculty members in an appropriate salary range shall be determined by their educational level, prior experience, if any, and present salary, if any, provided that no new faculty members shall be placed beyond the maximum or below the minimum of the appropriate educational level for the hiring ranges in Appendix A.

Educational level assignments: Below AA, AA, AA+32, BA, BA+16, MA, MA+12, MA+24, MA+36, MA+48, PhD. New faculty will be placed at the appropriate level, as determined by the Board, according to their educational preparation as indicated by transcripts and other documentation.

~~**Initial placement and educational level change may be waived at the discretion of the Board of Trustees upon recommendation of the President, District Director of Human Resources, and the Chancellor.**~~

**IECC Response:** IECC proposed several modifications to Section 9.9.5 as part of IECC's September 5, 2024, economic package proposal. IECC proposes that those modifications be accepted along with the remainder of IECC's September 5, 2024 package proposal.

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- 7) **Section 9.9.6.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

Article IX. Compensation

*The Association rejects the Board's counter proposal and counters:*

**Current Language:**

**Section 9.9.6 Waiver of Requirements.** Initial placement and educational level change may be waived at the discretion of the Board of Trustees upon recommendation of the President, District Director of Human Resources, and the Chief Executive Officer.

*The Association rejects the Board's counter proposal and counters:*

~~**Section 9.9.6 Waiver of Requirements.** Initial placement and educational level change may be waived at the discretion of the Board of Trustees upon recommendation of the President, District Director of Human Resources, and the Chief Executive Officer.~~

**IECC Response:** IECC accepted the proposed deletion of Section 9.9.6 as part of IECC's September 5, 2024 economic package proposal. IECC proposes that deletion be accepted along with the remainder of IECC's September 5, 2024 package proposal.

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- 8) **Section 12.0.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

### Article XII – Professional Employee Rights

#### Current Language:

**Section 12.0 Tenure.** A full-time faculty member shall be eligible for tenure in accordance with the provisions of Chapter 122, Section 103:B1-B6, Illinois Revised Statutes. This section shall not be subject to the grievance and arbitration procedure.

The Association is asserting our rights to grieve mandatory subjects of bargaining as it pertains to the contract, IL School Code, the IELRA (ILERB – 6 PERI 1048, page IX-149.) including but not limited to IL state and federal laws. The Association asserts our rights. This section shall be subject to the grievance and arbitration process. The Board cannot refuse nor is this provision subject to further bargaining between the parties.

**01/03/2024**

**Association maintains its proposal. On 12 April 2024, Board accepted the Association's proposal.**

**Section 12.0 Tenure.** A full-time faculty member shall be eligible for tenure in accordance with the provisions of Chapter 122, Section 103:B1-B6, Illinois Revised Statutes. ~~This section shall not be subject to the grievance and arbitration procedure.~~

*The Association does not agree to another conditional waiver of using only the grievance and binding arbitration procedure as a remedy to address violations of the Agreement. The Association retains its rights as afforded under the Illinois School Code, the ILERA (Section 14 (b)(3) and Section 10(b)), Illinois state and US Constitutions as well as other state and federal laws.*

*The Association and Individual employees (Rochester Ed Assoc. and Helen Verner, 7 PERI 1066, Case No. 91-CB-0005-S ILERB (5/17/91 ) have rights afforded under Illinois state and federal laws that will not be waived or relinquished. The Association and its members (individually or as a class grievance) retain any all all statutorily rights afforded under ILERA, Illinois state and federal laws as well as contractually.*

**IECC Response:** IECCEA agreed as part of the parties' May 30, 2023, ground rules that "no new items shall be submitted for negotiations by either party" after the parties submit their respective "full package of proposals for collective bargaining." IECCEA never included any proposed modifications to Section 12.0 in the initial "full package of proposals" that it submitted to IECC back in May 2023. As a result, the above proposed modification to Section 12.0 violates the parties' ground rules and constitutes bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act. Moreover, by virtue of the parties' ground rules, IECCEA has effectively agreed to roll over Section 12.0 into the parties' successor contract.

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Without waiving these arguments, IECC proposed on July 12, 2024 to allow grievances to be filed over Section 12.0 with the caveat that the grievance-arbitration process would be the exclusive mechanism for challenging whether “just cause” exists for tenured faculty member’s discipline or dismissal. Contrary to the IECCEA’s assertion, employees have no statutory right to pursue a private legal action in state or federal court over the breach of a collective bargaining agreement without first exhausting the contract’s grievance-arbitration process. *See Patterson v. Carbondale Community High Sch. Dist. No. 165*, 144 Ill. App. 3d 254, 259 (5th Dist. 1986) (“It is well-settled law that an employee seeking to enforce the employment contract must at least attempt to exhaust his contractual remedies before resorting to a judicial remedy.”). By extension, IECCEA’s proposal which would allow employees to “carve out” their Section 12.0 claims from the parties’ grievance-arbitration process is a permissive subject of bargaining. *See Chicago Bd. of Educ.*, 6 PERI ¶ 1048 (IL ELRB 1990); *accord Univ. of Ill. at Chicago*, 8 PERI ¶ 1014 (IL ELRB 1991). Insisting on this permissive subject to the point of impasse is bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act.

IECC therefore repropose the same version of Section 12.0 that it proposed to the Union on July 12, 2024.

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- 9) **Section 12.1.** IECCEA proposed on 9/5/24 the following modification with the associated rationale:

### **Article XII – Professional Employee Rights**

#### **Current Language:**

**Section 12.1 Right to Representation.** When any full-time faculty member is required to appear before the Board or an administrator for a formal discussion concerning the possible termination of said faculty member's employment at Illinois Eastern Community Colleges, the faculty member shall be given, in the absence of extenuating circumstances, reasonable prior written notice of the reason for such meeting. At any such meeting, the faculty member shall have the right to request that an Association representative be present.

This clause shall not apply to such conferences as those held between administrators or supervisors and full-time faculty members pursuant to the normal, routine evaluation or supervisory conference procedures of the District. If, however, a full-time faculty member is called to a meeting with an administrator or supervisor and said conference develops into a discussion of possible termination or dismissal, the conference shall be adjourned if requested by the faculty member until an Association representative can be present.

This Section shall not be applicable to meetings where the sole purpose is to advise a faculty member that he is being terminated or dismissed.

If the Board institutes proceedings to terminate or dismiss a full-time faculty member, the Board shall provide said faculty member, upon request, with a statement of the reason or reasons for said action.

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*Association proposed changes to ensure that faculty members receive due process and rights as afforded per the Illinois School Code, ILERA and Illinois state and federal laws.*

As you are aware, the Association asserted rights to maintain the status quo of the mandatory subjects and its practices. However, administration has implemented changes that have changed a faculty member's employment status as a punitive adverse disciplinary action.

On or about July 17, 2023, IECC Administrators directed a full-time tenured faculty member to meet with them. He was not provided any notice nor information as it related to his employment. He was not informed of his right to have union representation prior to, during or any other time. During this meeting, administration informed that his credit hours for his assigned courses as the only CTE full-time tenured Faculty were going to be reduced from 7 credit hours to 4 hours. Since this meeting and thereafter, administration has violated his rights, terms and conditions of employment by changing his employment status. He was not afforded any due process and has received punitive, financial diminishment and disparate treatment. The Association met with the Board on Friday, August 16, 2024. The Board informed the Association that it will not maintain the status quo and will not fully compensate him in accordance to the contractual terms of the agreement and its practices, further imposing disparate treatment and alternate wages, hours, terms and conditions of employment as full-time tenured faculty CTE Instructor. In doing such, the faculty member has not been paid all monies owed for classes taught in the Spring 2024 and Fall 2023 according to the terms and conditions of the agreement and its practices for the full-time tenured CTE faculty member and is being subjected to a demeaning demoted employment status,

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diminished pay and disparate treatment to that of adjunct faculty.

The current language contains several conditional waivers that deny members and the Association of rights that are afforded statutorily through the Illinois School Code, ILERA, Illinois state laws as well as federal laws, etc.

**The Association rejects the Board's counter proposal of 12 April 2024.**

**The Association rejects the Board's 12 July 2024 supplemental counter proposal.**

*The Association does not agree to the rescission of the Board's April 12, 2024 proposals. The Board shared their perspective as to how due process would be implemented based on their proposal for tenured faculty which did not contain any of the specifics of due process as verbally expressed as presented at the table. Additionally, the Board Attorney Powers also explained in their view that non-tenured faculty do not have contractual rights to file grievances and no rights to due process or just cause. No where in the contractual terms does the contract nor the labor act limit or exclude non-tenured faculty from all of the rights, due process, etc. of the contract, representation, etc. The only limited provisional rights involve the provisions regarding evaluations, seniority, reduction in force, nonrenewal. Lastly, in reviewing said proposals, the language only specifies that the member has the right to respond to the allegations of misconduct. There is no language providing (written) notice to the employee, or any other procedural steps or timelines when investigating alleged misconduct, conducting an impartial or objective investigation nor informing the member that s/he is being investigated nor prescribing to the tenets of progressive discipline and just cause.*

*With that said, the Association did not and does not agree to another conditional waiver of any kind to which restricts our statutory rights to seek remedy through other venues (i.e., ULP, etc.). The Association asserts the entitled rights of having all negotiated provisions of the Agreement be subject to the grievance and binding arbitration procedure. The Association retains its rights as afforded under the Illinois School Code, the ILERA (Section 14 (b)(3) and Section 10(b)), Illinois state and US Constitutions as well as other state and federal laws in order to pursue remedies for violations of the agreement and/or one's statutory rights through the contract, the ILERA (ULP), court systems, etc.*

*The Association disagrees with the Board's assertion regarding due process and just cause for nontenured and tenured faculty. Non-tenured and tenured full-time faculty are afforded rights to due process, representation and just cause.*

***Pursuant to the US and Illinois Constitutions which provide that no one shall be deprived of "life, liberty or property, except by due process of law. "Property includes contractual rights to employment (e.g., tenure or annual employment contract, etc.). Before nontenured or tenured faculty is given any adverse employment actions that would consist of change in employment status, demotion, discipline, suspension with or without pay or dismissal from an assignment or position, the employee must be provided with due process. The Seventh Circuit court held that a demeaning reassignment or diminishment of employment status or hours and/or pay would affect one's property. Levenstein v. Salafshy, 164 F. 3d 345 (7<sup>th</sup> Cir 1998), Parrett v. City of Connersville, 773 F. 2d 690 (7<sup>th</sup> Cir. 1984). As you are aware, liberty interests can initiate not solely in a dismissal but also a non-renewal of a tenured or non-tenured employee when the reasons disseminated to the public or future employers if it causes grave damage to the employee's standing the community or it creates an inability to get future employment. Bd of Regents v. Roth, 408 U.S. 564 (1972). The Association and Individual employees (Rochester Ed Assoc. and Helen Verner, 7 PERI 1066, Case No. 91-CB-0005-S ILERB (5/17/91) ) have rights afforded under Illinois state and federal laws that***

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*are not to be waived, acquiesced, surrender or relinquished.*

***The Illinois appellate court held that the employee's right to a fair and impartial pre-termination hearing was denied when she was not allowed to bring her union representative to the proceeding. Board of Education of Round Lake v. ISBE (Barbara Cohn), 226 Ill. Dec. 309 (2d Dist. 1997).***

Non-tenured faculty are entitled to due process and just cause. The terms of the agreement do not permit non-tenured to be treated differently than tenured in wages, hours, terms and conditions excluding RIF. Actually, based on the RIF terms, the board is actually providing non-tenured seniority over tenured based on the actual time spent teaching specific courses, as the Board's response to the Association's RIF proposal, is another conditional waiver of diminished rights for faculty afforded under the Illinois School Code.

So as to understand the Board's intent and application of "corrective discipline," in it July 12, 2024, please provide an example of said reference as well as the use of both tenets: progressive and corrective discipline. As to the Board's proposal of the discretion to skip or eliminate a particular step, would constitute denying a member of their entitled right to due process which would include abrogating a fair and impartial hearing of alleged misconduct thereby not abiding to just cause. The Association does not agree that the employer can skip or eliminate a particular disciplinary step at will. This would erode and undermine the union's obligation and duty to fairly represent and advocate for our members and ensure that s/he receives due process and the adherence to the premise of just cause. This is also contrary to the stance of subscribing to the tenets of progressive discipline.

## **The Association counter proposes the following changes:**

**Section 12.1 Right to Representation.** When any full-time faculty member is required to appear before the Board or an administrator for a formal investigatory discussion concerning adverse employment action, allegations of misconduct, or the possible disciplinary action, or termination of said faculty member's employment at Illinois Eastern Community Colleges, it shall be for just cause. The administrator or Board shall conduct a fair, objective investigation. The faculty member shall be given due process, in the absence of extenuating circumstances, and reasonable prior written notice of not less than three (3) faculty workdays prior to any mutually scheduled meeting, and the reason for such meeting. The Association President shall also receive a copy of the written notice provided at the same time as the faculty member receives said notice. At any such meeting, the faculty member shall have the right to ~~request that an~~ the Association President or his/her Association representative designee be present to represent the faculty member as his/her union representative.

This clause shall ~~not~~ apply to such conferences as those held between administrators or supervisors and full-time faculty members pursuant to the normal, routine evaluation or supervisory conference procedures of the District. If, however, a full-time faculty member is called to a meeting with an administrator or supervisor and said conference develops into a discussion of possible adverse employment action, discipline, termination or dismissal, the conference shall be adjourned ~~if requested~~ by the faculty member and/or administrator/supervisor until an Association representative can be present and the faculty member be provided with due process of said matter.

~~This Section shall not be applicable to meetings where the sole purpose is to advise a faculty member that he is being terminated or dismissed.~~



## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

### IECC Response: IECC counter-proposes the following edits to Section 12.1:

**Section 12.1 Right to Representation.** When any full-time faculty member is required to appear before the Board or an administrator for a formal investigatory discussion concerning allegations of misconduct ~~the possible termination of said faculty member's employment at Illinois Eastern Community Colleges,~~ the faculty member shall be given, in the absence of extenuating circumstances, reasonable prior written notice of at least three (3) faculty work days about ~~of~~ the reason for such meeting. The Association President shall also receive a copy of the written notice provided at the same time as the faculty member receives said notice. At any such meeting, the faculty member shall have the right to request that an Association representative be present.

This clause shall not apply to such conferences as those held between administrators or supervisors and full-time faculty members pursuant to the normal, routine evaluation or supervisory conference procedures of the District. If, however, a full-time faculty member is called to a meeting with an administrator or supervisor and said conference develops into a discussion of possible discipline ~~termination or dismissal,~~ the conference shall be adjourned if requested by the faculty member until an Association representative can be present.

This Section shall not be applicable to meetings where the sole purpose is to advise a faculty member that he is being disciplined ~~terminated or dismissed.~~

~~If the Board institutes proceedings to terminate or dismiss a full-time faculty member, the Board shall provide said faculty member, upon request, with a statement of the reason or reasons for said action.~~

IECCEA rejects several of the Association's proposed edits for the following reasons:

- The IECCEA's proposed edits would require a showing of "just cause" in order for IECC to simply "talk" with faculty during investigatory discussions; neither the U.S. Constitution nor any federal or state law requires "just cause" before a public employer can "talk" with its employees.
- Many arbitrators consider the phrase "fair, impartial investigation" as part of the "just cause" standard, such that including the phrase as a separate, stand-alone provision risks confusing future decision-makers.
- The IECCEA's proposed edits unnecessarily expand upon the *Weingarten* principle by eliminating the requirement that an employee *request* a union representative and that union representation does not need to be afforded during performance evaluation meetings and non-investigatory meetings where already-announced disciplined will be presented to an employee.

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

*See Patoka Community Unit Sch. Dist. #100, 41 PERI ¶ 42 (IELRB 2024) (no right to union representation at a non-investigatory meeting).*

- The use of the term “mutually scheduled meeting” would allow the IECCEA to forever block and prevent IECC from talking to a faculty member as part of an investigatory interview.

For the record, IECC denies several false statements made by IECCEA in the rationale stated above, including:

- IECC did *not* change a faculty member's “employment status as a punitive adverse disciplinary action” in July 17, 2023;
- IECC did *not* hold any type of disciplinary meeting with a faculty member on or about July 17, 2023, which required a union representative; nor did any faculty member ever request a union representative on or about July 17, 2023;
- IECC did *not* inform the Association that it “will not maintain the status quo and will not fully compensate [a faculty member] in accordance to the contractual terms of the agreements and its practices;”
- IECC has *not* failed to compensate any faculty members in Fall 2023 and the Spring 2024 in accordance with the terms of the parties' collective bargaining agreement.

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

- 10) **Section 12.1.1.** IECCEA proposed on 9/5/24 the following new Section for inclusion in the parties' collective bargaining agreement:

### **Article XII – Professional Employee Rights**

#### **NEW**

**Section 12.1.1 Faculty Discipline and Just Cause.** The parties agree that discipline shall be progressive in nature. Progressive discipline and the process shall, typically, be comprised of a) verbal warning, b) written reprimand, c) suspension with or without pay, d) adverse employment action and/or change in employment status, and e) dismissal or termination .

- a) Opportunity to Respond. Before taking any disciplinary action and completion of the investigation, the Board or administrator/supervisor shall give the faculty member an opportunity to meet and respond to the allegations of misconduct, and the evidence that shall be provided to the member and the Association representative at least three (3) workdays prior to the meeting upon which the Board or administrator/supervisor is basing its contemplated discipline.
- b) If the Board decides to institute proceedings to take adverse employment action, discipline, terminate or dismiss a full-time faculty member for just cause, the Board shall provide the faculty member and the Association President or his/her designee, with a written summary that shall contain the specific alleged misconduct, the reason or reasons for the Board's adverse employment actions, discipline, termination or dismissal, and a copy of all information and/or evidence obtained that the Board used to make its determination.

The faculty member shall have the right to union representation and be represented by the Association President or his/her designee at any and all meetings, proceedings or hearings including any subsequent related meetings. The Faculty member and the Association President or his/her designee, shall be kept informed, as appropriate and allowable in accordance with the contract and the law, as the process moves forward.

**IECC Response:** IECC counter-proposes the following language, which IECC already presented on July 12, 2024 within the context of Section 12.0:

**Full-time tenured faculty shall be disciplined or dismissed only for just cause (non-tenured faculty may be disciplined or dismissed without just cause). The Board agrees with the tenets of progressive and corrective discipline, although the Employer reserves the right to skip a particular disciplinary step in appropriate circumstances. Forms of discipline will include the following: (a) oral warning; (b) written reprimand; (c) suspension without pay; and (d) dismissal.**

**Before issuing any discipline or dismissal to a faculty member, the Board will allow the faculty member an opportunity to meet and discuss the basis for the discipline or dismissal. The Board will provide the faculty member with a written summary of the basis for the discipline or dismissal before the**

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

aforementioned meeting. The faculty member may request the presence of an Association representative during the aforementioned meeting.

The exclusive appeal mechanism for challenging whether just cause exists for a tenured faculty member's discipline or dismissal shall be the grievance-arbitration process contained in this Agreement.

Contrary to IECCEA's assertion, non-tenured faculty enjoy no "just cause" protections under Illinois law. *See Kerger v. Bd. of Trustees of Community College Dist. No. 502*, 295 Ill. App. 272 (2d Dist. 1998). It is commonly accepted that non-tenured faculty members can be released at any time during their first three years of employment at the discretion of a community college. As a result, IECCEA's proposal seeks to expand the "just cause" rights of non-tenured faculty beyond what the law requires. IECC does not agree with such an expansion. Instead, IECC wishes to incorporate the current state of the law into the parties' contract by applying a just cause standard *only* to tenured faculty members.

IECC notes that exempting probationary employees from a "just cause" standard is a common component of most collective bargaining agreements. *See generally* ELKOURI & ELKOURI HOW ARBITRATION WORKS 15-6 (8th ed. 2016) ("the weight of arbitral authority supports the proposition that Management has broad, if not almost unlimited, discretion where probationary employees are concerned"). As a result, IECC believes that its proposal is more reasonable because it reflects the parties' *status quo*, whereas IECCEA's proposal seeks to expand employee rights beyond what the law otherwise requires.

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

### 11) Section 12.2.2. IECCEA proposed on 9/5/24 the following modifications and rationale:

#### Article XII – Professional Employee Rights:

##### 12.2.2 Reduction-in-Force

###### Current Language:

Section 12.2.2 Reduction in Force.

The reduction in force of faculty members shall be in accordance with the provisions of 110 ILCS 805/3B-5. **The provisions of this Section, and any such reduction in force, shall not be subject to the grievance and arbitration procedure as set forth in this Agreement.**

***The Association rejects the Board's counter of July 12, 2024. The Association does not (mutually) agree to the Board's request of rescinding the previously submitted proposals of April 12, 2024.***

***The Association maintains its counterproposal. On April 12, 2024, the Board accepted the Association's proposal.***

***In the Board's April 12, 2024 proposal, it accepts the Association's proposal. However, the Association does not agree nor can be compelled to accept any conditional waivers as a condition of reasserting our afforded statutory rights including the grievance and binding arbitration process as the sole remedy to address violations. The Association retains all of its rights as afforded under the Illinois School Code, ILERA, and Illinois state and federal laws. As to the Board's allegation of the Association submitting our proposals on 1 March 2024, the Board made unilateral changes by imposing a selective reduction-in-force of a Faculty CTE Program – Truck Driving by diminishing and/or eliminating federally required core curriculum, direct in-person instruction and the courses credit hours without the approval of ICCB administrative rules since its initial ICCB approval and subsequent approval to comply with updated federal provisions from the Department of Transportation. IECC has not received approval to implement the substantive diminishing modifications to the ICCB approved curriculum, course credit hours and prescribed modality of instruction and labs for the CTE Program – Professional CDL Truck Driving.***

Section 12.2.2 Reduction in Force.

The reduction in force of faculty members shall be in accordance with the provisions of 110 ILCS 805/3B-5 and negotiated provisions below. ~~The provisions of this Section, and any such reduction in force, shall not be subject to the grievance and arbitration procedure as set forth in this Agreement.~~

- a) If a dismissal of a faculty member for the ensuing school year results from the decision by the Board to decrease the number of faculty members employed by the Board or to discontinue some particular type of teaching service or program, notice shall be given the affected faculty member not later than 60 days before the end of the preceding school year, together with a statement of honorable dismissal and the reason therefor; provided that the employment of no tenured faculty member may be terminated under the provisions of this Section while any probationary faculty member, or any other employee with less seniority, is retained to render a

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

service which the tenured employee is competent to render. In the event a tenured faculty member is not given notice within the time herein provided, he shall be deemed reemployed for the ensuing school year.

- b) Each year the board, shall provide and distribute the seniority list to the Association and its members, categorized by position showing the seniority of each faculty member for each position then employed by the Board and the area(s) in which they are qualified to teach according to the IECC job description and ICCB Policy. A copy of the list shall also be provided to the President of the Association on or before February 1 of each year.
- c) For the period of 24 months from the beginning of the school year for which the faculty member was dismissed, any faculty member shall have the preferred right to reappointment to a position entailing services he/she is competent to render prior to the appointment of any new faculty member; provided that no non-tenured faculty member or other employee with less seniority shall be employed to render a service which a tenured faculty member is competent to render.

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***The Association is asserting our rights to grieve mandatory subjects of bargaining as it pertains to the contract, Illinois School Code and its administrative rules and the Illinois Educational Labor Relations Act (IELRA) and restore all rights afforded statutorily or otherwise.***

***IELRB: 6 PERI 1048, page IX-149.***

Association asserts our rights. This section shall be subject to the grievance and arbitration process and all other legal or statutorily available to pursue. The Board cannot refuse nor compel or restrict the Association's rights regarding Reduction-in-Force to accept an alternative process that is a diminishment of rights of the law.

***The Association does not agree to another conditional waiver of using only the grievance and binding arbitration procedure as a remedy to address violations of the Agreement. The Association retains its rights as afforded under the Illinois School Code, the ILERA (Section 14 (b)(3) and Section 10(b)), Illinois state and US Constitutions as well as other state and federal laws.***

***The Association and Individual employees (Rochester Ed Assoc. and Helen Verner, 7 PERI 1066, Case No. 91-CB-0005-S ILERB (5/17/91) have rights afforded under Illinois state and federal laws that will not be waived or relinquished.***

*The Illinois School Code, 110 ILCS 805/3b-5 specifically provides that the employment of no tenured faculty member may be terminated under the provisions of this Section while any probationary faculty member, or any other employee with less seniority, is retained to render a service which the tenured employee is competent to render. It does not stipulate the rank is solely based on time spent teaching specific courses but tenured faculty that is competent to render said instruction. As a reminder, the Association has demanded to bargain job qualifications which are a mandatory subject of bargaining. (Mundelein Education Association and Mundelein High School District 120, April 16, 2014).*

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## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

**IECC Response:** IECC proposed on July 12, 2024 to allow grievances to be filed over Section 12.2.2 with the caveat that the grievance-arbitration process would be the exclusive mechanism for challenging violation of Section 12.2.2. Contrary to the IECCEA's assertion, employees have no statutory right to pursue a private legal action for a violation of 110 ILCS 805/3B-5. Unlike civil rights statutes like Title VII or the Illinois Human Rights Act, Section 3B-5 does not set forth any express cause of action or specify any remedy for its violation. As a result, parties are free to bargain for grievance-arbitration to be the sole enforcement mechanism for Section 3B-5 violations. By extension, IECCEA's proposal would impermissibly allow employees to "carve out" their Section 12.2.2 rights from the parties' grievance-arbitration process, which is a permissive subject of bargaining. *See Chicago Bd. of Educ.*, 6 PERI ¶ 1048 (IL ELRB 1990); *accord Univ. of Ill. at Chicago*, 8 PERI ¶ 1014 (IL ELRB 1991). Insisting on this permissive subject to the point of impasse is bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act.

IECC therefore repropose the version of Section 12.2.2 that it proposed to the Union on July 12, 2024.

For the record, IECC denies several false statements made by IECCEA in the rationale stated above:

- IECC did *not* make unilaterally changes by imposing a selective reduction-in-force of Faculty CTE Program – Truck Driving.
- IECC has *not* diminished and/or eliminated federally required core curriculum for truck-driving courses.

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

### 12) **Section 12.3.** IECCEA proposed on 9/5/24 the following modifications and rationale:

**Section 12.3 Evaluations of All Full-time Non-Tenured and Tenured Faculty.** It is the responsibility of the district to implement the following procedures which will provide for the evaluation of all full-time tenured and non-tenured faculty.

#### .1 **Procedure - Evaluation of All Full-Time Tenured Faculty**

Written evaluations of each tenured faculty member will be accomplished in the following manner:

- A. The Dean of Instruction will be the evaluator at each college/division. The Dean of Instruction determines and shall provide written notice of at least 30 workdays to the faculty member that he/she will be evaluated for that academic year. The Dean of Instruction shall provide names of supervisors or administrators who may conduct evaluative visit/s. A copy of the evaluation procedure, its evaluative criteria and instrument/s to be used to evaluate the tenured faculty member shall be provided to the employee within the first 15 workdays of the academic year prior to any evaluative visit.
- B. The Dean of Instruction will visit the tenured faculty member and complete the evaluation form. Evaluative input solicited from other appropriate supervisors or administrators that have directly worked with the faculty member in that instructor's teaching assignment/s during the evaluation process of each tenured faculty member, if applicable. Insofar as possible, this input will be solicited prior to the classroom visitation. The faculty member shall receive a written copy from each supervisor or administrator who provided the solicited input which shall include but not limited to the name of the supervisor or administrator, all objective comments, statements, and assessments, or evaluative objective data or information used to provide an evaluative input regarding the faculty member.
- C. The evaluator with the input of other appropriate supervisors or administrators, will also evaluate other aspects of the jobs to be performed by faculty, where applicable. The criteria that will be used in the evaluation process in addition to classroom or other formal activity (depending upon an instructor's teaching assignment/s) will include:
  1. Assembling, consulting and implementing Advisory committee recommendations.
  2. Maintaining curriculum, course updates, and revisions.
  3. Serving on a College committee.
  4. Maintaining records as required by law, college policy, and administrative regulations.
  5. Maintaining scheduled office hours.
  6. Attending and participating in faculty and department meetings.
  7. Attending local, state, and regional professional meetings and/or
  8. Participating in other forms of professional development.



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9. Maintaining proper controls on and maintenance of tools, equipment, supplies and materials under one's area of responsibility.
  10. Performing related duties as assigned by the administration in accordance with college policies and practices.
  11. Assisting in upholding and enforcing college rules and administration regulations.
  12. Providing students with public performances and displays in such areas as music, speech, theatre, art, and reader's theatre; in order to provide the competitiveness and appreciation necessary for students to compete at the college level.
  13. Providing students with academic advice and other educational services in order to ensure student success.
  14. Providing students with co-curricular activities in such areas as athletics, field trips, and occupationally related clubs.
  15. Providing timely and complete reports required for ICCB, Higher Learning Commission, special accreditation associations, the Board of Higher Education, and other required reports.
  17. Disseminating program information: recruitment of area students through high school visitations, career fairs, and college open houses and events.
- D. A formal evaluation conference with the evaluator and the tenured faculty member will be held in person following a classroom visitation and/or evaluation filed on the other job performance criteria that are outlined above. The tenured faculty member shall be provided a copy of the completed evaluation by the designated administrator at least three workdays prior to the conference. The conference should be held within one to five faculty working days following such evaluation.
- E. A tenured faculty member will be apprised of any defects and/or deficiencies in his/her performance as discovered in the formal evaluation process, if any. The tenured faculty evaluated will be advised to take appropriate action to remediate the defects/deficiencies cited, if any.
- F. A tenured faculty member will be given the opportunity to respond in writing to any part of the evaluation and that response will be attached to the official evaluation file.
- G. The evaluator may evaluate tenured faculty at a minimum of once every three years, if needed.
- H. All evaluation visits will be scheduled with mutual agreement of the tenured faculty member so as not to hinder, impede or cause adverse impact of course instruction prior to the visit/s with the tenured faculty member involved. (This does not preclude a tenured faculty member from inviting an administrator into a class for an informal visitation or for administrators making an occasional announced visitation.)
- I. Evaluations will be submitted to the Vice Chancellor of Academic Affairs within 30 days after the evaluation is completed.

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- J. All written evaluations of tenured faculty shall be kept on file in Human Resources at the District Office and the Chancellor will be given notice of written evaluations being completed.

## **.2 Procedure - Evaluation of All Full-time Non-Tenured Faculty**

Written evaluations of each non-tenured faculty member will be accomplished in the following manner:

- A. The Dean of Instruction will be the evaluator at each college/division. The Dean of Instruction determines and shall provide written notice of at least 30 workdays to the non-tenured faculty member that he/she will be evaluated for that academic year. The Dean of Instruction shall provide names of supervisors or administrators who may conduct evaluative visit/s. A copy of the evaluation procedure, its evaluative criteria and instrument/s to be used to evaluate the non-tenured faculty member shall be provided to the employee within the first 15 workdays of the academic year prior to any evaluative visit.
- B. The Dean of Instruction will visit the non-tenured faculty member and complete the evaluation form. Evaluative input solicited from other appropriate supervisors or administrators that have directly worked with the non-tenured faculty member in that instructor's teaching assignment/s during the evaluation process of each non-tenured faculty member, if applicable. Insofar as possible, this input will be solicited prior to the classroom visitation. The non-tenured faculty member shall receive a written copy from each supervisor or administrator who provided the solicited input which shall include but not limited to the name of the supervisor or administrator, all objective comments, statements, and assessments, or evaluative objective data or information used to provide an evaluative input regarding the faculty member.
- C. The evaluator with the input of other appropriate supervisors or administrators, will also evaluate other aspects of the jobs to be performed by the non-tenured faculty, where applicable. The criteria that will be used in the evaluation process in addition to classroom or other formal activity (depending upon an instructor's teaching assignment/s) will include:
  - 1. Assembling, consulting and implementing Advisory committee recommendations.
  - 2. Maintaining curriculum, course updates, and revisions.
  - 3. Serving on a College committee.
  - 4. Maintaining records as required by law, college policy, and administrative regulations.
  - 5. Maintaining scheduled office hours.
  - 6. Attending and participating in faculty and department meetings.
  - 7. Attending local, state, and regional professional meetings and/or
  - 8. Participating in other forms of professional development.
  - 9. Maintaining proper controls on and maintenance of tools, equipment, supplies and materials under one's area of responsibility.
  - 10. Performing related duties as assigned by the administration in accordance with college policies and practices.

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11. Assisting in upholding and enforcing college rules and administration regulations.
  12. Providing students with public performances and displays in such areas as music, speech, theatre, art, and reader's theatre; in order to provide the competitiveness and appreciation necessary for students to compete at the college level.
  13. Providing students with academic advice and other educational services in order to ensure student success.
  14. Providing students with co-curricular activities in such areas as athletics, field trips, and occupationally related clubs.
  15. Providing timely and complete reports required for ICCB, Higher Learning Commission, special accreditation associations, the Board of Higher Education, and other required reports.
  17. Disseminating program information: recruitment of area students through high school visitations, career fairs, and college open houses and events.
- D. A formal evaluation conference with the evaluator and the non-tenured faculty member will be held in person following a classroom visitation and/or evaluation filed on the other job performance criteria that are outlined above. The non-tenured faculty member shall be provided a copy of the completed evaluation by the designated administrator at least three workdays prior to the conference. The conference should be held within one to five faculty working days following such evaluation.
- E. A non-tenured faculty member will be apprised of any defects and/or deficiencies in his/her performance as discovered in the formal evaluation process, if any. The non-tenured faculty evaluated will be advised to take appropriate action to remediate the defects/deficiencies cited, if any.
- F. A non-tenured faculty member will be given the opportunity to respond in writing to any part of the evaluation and that response will be attached to the official evaluation file.
- G. The evaluator may evaluate non-tenured faculty at a minimum of once each year, if needed or the non-tenured has attained tenure.
- H. All evaluation visits will be scheduled with mutual agreement of the non-tenured faculty member so as not to hinder, impede or cause adverse impact of course instruction prior to the visit/s with the non-tenured faculty member involved. (This does not preclude a nontenured faculty member from inviting an administrator into a class for an informal visitation or for administrators making an occasional announced visitation.) Evaluations will be submitted to the Vice Chancellor of Academic Affairs within 30 days after the evaluation is completed.
- I. If a decision to dismiss a non-tenured staff member is made, all requirements as outlined in the Illinois Community College Tenure Act, Section 3B-3 "Dismissal of Non-Tenured Faculty Member" shall be followed.

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

- J. All written evaluations of non-tenured faculty shall be kept on file in Human Resources at the District Office and the Chancellor will be given notice of written evaluations being completed.

**IECC Counter-Proposal and Rationale:** IECCEA agreed as part of the parties' May 30, 2023, ground rules that "no new items shall be submitted for negotiations by either party" after the parties submit their respective "full package of proposals for collective bargaining." IECCEA never proposed Section 12.3 in the initial "full package of proposals" that it submitted to IECC back in May 2023. As a result, the above proposed new Section 12.3 violates the parties' ground rules and constitutes bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act.

IECC also notes that it has not "conditioned" bargaining or refused to bargain over Section 12.3. IECC has bargained, and will continue to bargain, in good faith over IECCEA's proposal to include Section 12.3. To date, IECC simply has said "no" to the inclusion of newly proposed Section 12.3. Needless to say, "no" is a legitimate counter-proposal. Nor, did IECC "condition" its counter-proposal on anything. IECC simply does not see the need to change the *status quo* by belatedly including Section 12.3 (especially where IECC has since withdrawn its merit pay proposal as part of its September 5, 2024 economic package).

Finally, IECC has noted, and continues to note, that the performance criteria found in Section 12.3 are permissive subjects of bargaining. *See Village of Orland Park*, 21 PERI ¶ 42 (ILRB-SP 2005). As a result, IECCEA's continued insistence on this aspect of Section 12.3 to the point of impasse will constitute bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act.

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

### 13) **Section 14.0.** IECCEA proposed on 9/5/24 the following modifications and rationale:

#### **ARTICLE XIV - COMMUNICATIONS COMMITTEE**

##### **Current Language:**

##### **Section 14.0**

A Communications Committee shall be established which shall be composed of the Association Executive Committee (i.e., up to five (5) bargaining unit employees designated by the Association) and up to five members designated by the Chief Executive Officer. Upon the reasonable request of either party, the Communications Committee shall meet to discuss matters of mutual concern that do not involve negotiations. The party requesting the meeting shall submit a written agenda of the items it wishes to discuss at least two days prior to the date of the meeting. This Section shall not be applicable to any matter that is the subject of a grievance that is being processed pursuant to the grievance procedure set forth in this Agreement.

Travel expenses for Association members serving on this committee shall be reimbursed to the Association members at the normal District rate.

*The Association no longer agrees to the conditional waiver of the exclusion of this section of not being applicable to the grievance and binding arbitration procedure. The Association asserts its rights that all negotiated provisions of the Agreement are applicable to the grievance and binding arbitration procedure as well as all other statutory rights and benefits afforded to members through the Illinois ELRA, Illinois state and federal laws.*

#### **ARTICLE XIV - COMMUNICATIONS COMMITTEE**

##### **Section 14.0**

A Communications Committee shall be established which shall be composed of the Association Executive Committee **which is comprised of the Association Officers and Association Campus Representatives** (i.e., up to five (5) bargaining unit employees designated by the Association) and up to five members designated by the Chief Executive Officer. Upon the reasonable request of either party, the Communications Committee shall meet to discuss matters of mutual concern that do not involve negotiations. The party requesting the meeting shall submit a written agenda of the items it wishes to discuss at least two days prior to the date of the meeting. **This Section shall not be applicable to any matter that is the subject of a grievance that is being processed pursuant to the grievance procedure set forth in this Agreement.**

Travel expenses for Association members serving on this committee shall be reimbursed to the Association members at the normal District rate.

**IECC Counter-Proposal and Rationale:** IECCEA agreed as part of the parties' May 30, 2023, ground rules that "no new items shall be submitted for negotiations by either party" after the parties submit their respective "full

## IECC Counter-Proposals to IECCEA's September 5, 2024 Proposals

package of proposals for collective bargaining.” IECCEA never included any proposed modifications to Section 14.0 in the initial “full package of proposals” that it submitted to IECC back in May 2023. As a result, the above proposed modification to Section 14.0 violates the parties’ ground rules and constitutes bad faith bargaining in violation of Section 14(b)(3) of the Illinois Educational Labor Relations Act. Moreover, by virtue of the parties’ ground rules, IECCEA has effectively agreed to roll over Section 14.0 into the parties’ successor contract.

IECC also notes that the sentence proposed for deletion is not a permissive subject of bargaining. Contrary to IECCEA’s assertion, that sentence does not “carve out” anything from the parties’ grievance-arbitration process. The sentence simply limits the topics that will be discussed during communications committee meetings. It does *not* address the topics that can or cannot be submitted to arbitration.

As a result, IECC is unwilling to agree to deviate from its ground rules and hereby expects that the original language of Section 14.0 will be rolled over into the parties’ successor contract.

\* \* \*