

CAUTION: The following advice may be based on a rule that has been revised since the opinion was first issued. Consequently, the analysis reflected in the opinion may be outdated.

IC 20-7.5-1-9

The EERB Chairman wanted to know if he was permitted to teach a class for a state-supported university under the EERB's statute. SEC found that this arrangement was not a violation of the state statute regulating the chairman's duties so long as the teaching was done outside the context of the Chairman's duties with EERB.

**94-I-13, Education Employment Relations Board's Statute on Employment of the Chairman
(Decision October 20, 1994)**

FACT SITUATION

The chairman of the Education Employment Relations Board (EERB) wanted to know if he was permitted to teach a class for a state supported university by the section of the statute that applied to the creation of the board and the employment of the members and the chairman. He had been asked by a state university to teach a class in labor relations the following spring semester.

The EERB administered the teacher collective bargaining law (Public Law 217-1973). The Board had three members, two part-time members and one full-time member who was the chairman. By statute, the Governor appointed these members, and no more than two could be from the same political party. The Board adjudicated unfair labor practice charges filed by teachers' unions against school boards in various school districts in Indiana or by school boards against teachers' unions. The EERB had hearing examiners who heard those cases in evidentiary hearings and wrote reports, and the Board heard appeals from those hearings. The Board met once a month to hear oral arguments and decide appeals. The responsibilities of the part-time members were limited largely to the monthly meetings. The chairman was the chief administrative officer and responsible for the budget and entire operation of the agency. In addition to unfair labor practices adjudication, the EERB had mediators who went to school corporations and mediated between school boards and teachers' unions. The EERB also did advisory factfinding and representational elections in schools.

The chairman had training as a labor lawyer and litigator. He had been an attorney in private practice for several years and was appointed to the Board in 1989 as a member. Later he became chairman.

The EERB did not have jurisdiction over employees of state universities, only over public primary and secondary schools. It engaged in no decisions regarding state universities.

QUESTION

Does the state statute regulating the employment of the chairman of the Education Employment Relations Board permit the chairman to teach a class for a state supported university?

OPINION

The Commission found that teaching one night class as an adjunct instructor at a university was not a violation of the state statute regulating the chairman's duties so long as the teaching was done outside the context of the work as a full-time chairman of the Education Employment Relations Board.

The relevant statute is IC 20-7.5-1-9. Relevant sections for determination of this question are as follows:

"(a) There is created an Indiana education employment relations board that shall consist

of three (3) members appointed by the governor to serve at the governor's pleasure. One (1) member shall be designated by the governor as chairman

(b) Members shall hold no other . . . employment by the state or other public agency or public employer

(c) Subsection (b) does not apply to persons on the teaching staff of a university who are knowledgeable in public administration or labor law so long as they are not actively engaged, other than as a member, with any labor or employee organization. This subsection shall be construed liberally to effectuate the intent of the general assembly.

(d) The chairman shall give full time to the chairman's duties. The chairman of the board shall not engage in any other business, vocation, or employment."