

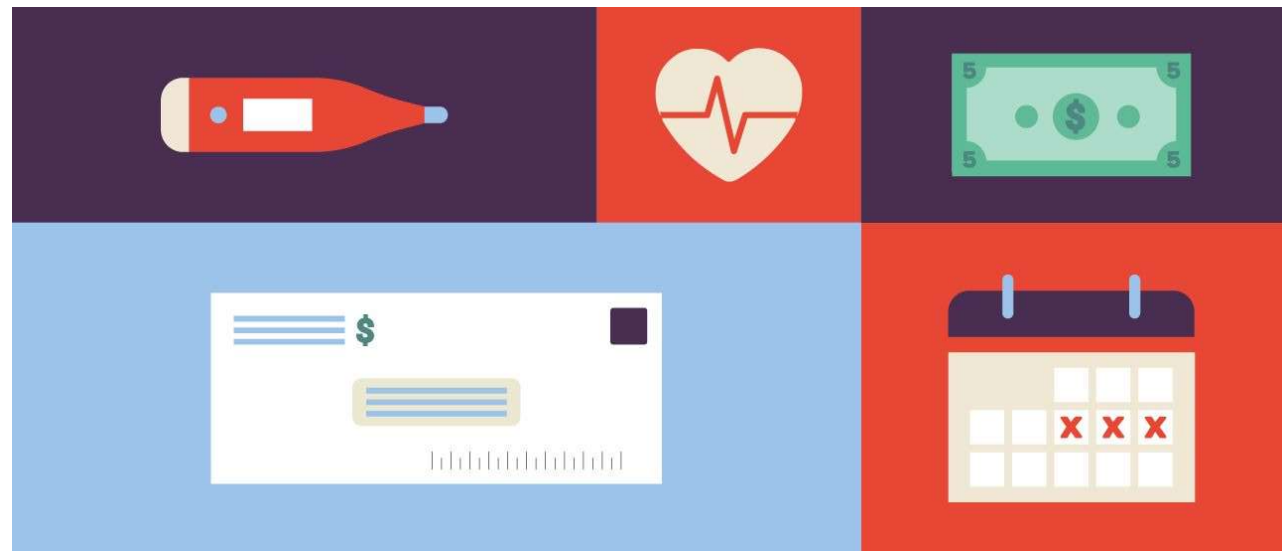
Hot Legal Topics: The Labor/Management Relationship in the Wake of COVID-19

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ICCCFO Conference | April 22, 2022

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Sick Leave Restoration and Paid Leaves under HB 1167



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Summary of HB 1167

- Attempt #2 for paid COVID-19 leave
 - Now includes vaccination condition
- Two new pay requirements for colleges
 - Reimbursement of sick leave for COVID-19 reasons
 - Paid administrative leave for COVID-19 reasons

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Definitions and Conditions

- “Employee”: People employed when the Act goes into effect.
- “Fully vaccinated”
 - 2 weeks after 2 doses of a 2-dose series or a single dose of a vaccine with FDA approval or EUA, and
 - Any recommended booster doses if the individual is eligible and IDPH has adopted CDC’s change to its definition of “fully vaccinated.”
 - CDC definition does not include booster doses as of 4/13/2022.
- COVID-19 reasons for sick leave or paid leave include when the employee or their child is restricted from being on college property because they:
 - Have a confirmed diagnosis from a molecular amplification diagnostic test result (such as PCR),
 - Have a probable diagnosis from an antigen diagnostic test,
 - Are a close contact with a person who had a confirmed case and must be excluded, or
 - Is required to be excluded from district property due to COVID-19 symptoms.

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Definitions and Conditions

- To qualify for the new paid administrative leave or sick leave, employees must receive all of the vaccine doses required to be fully vaccinated no later than May 10, 2022.
- If IDPH later requires booster doses for full vaccination:
 - Employees have five weeks to update their shots to ensure future eligibility.
 - Colleges may not rescind paid administrative leave or sick leave they have granted on the basis that an employee is no longer “fully vaccinated.”
- Employees must provide “all documentation requested by the college” for paid administrative leave.

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Return of Sick Leave

- Available to all employees who have the required vaccine dose(s) by May 10
- Only available for sick leave that was used:
 - during the 2021-2022 year, and
 - for the listed COVID-19 reasons
- SURS implications

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COVID-19 Paid Administrative Leave

- Available to all employees who:
 - have required vaccine dose(s) by May 10 and
 - (if applicable) participate in required testing
- Only available when the employee is/was absent or excluded:
 - during a disaster declared due to a public health emergency, and
 - for the listed COVID-19 reasons

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Lessons from the Bargaining Table



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The COVID Bargaining Experience

- COVID Midterm Adjustments
 - Greater Collaboration
 - Unique Proposals
- Remote Bargaining
 - Advantages
 - Disadvantages

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Successor Bargaining

- Rollovers
- Prolonged bargaining cycles
- Labor Shortages
 - Faculty
 - Support staff
- Inflationary pressures

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CPI 2017 – 2022 (Chicago)

12-Month Percent Change

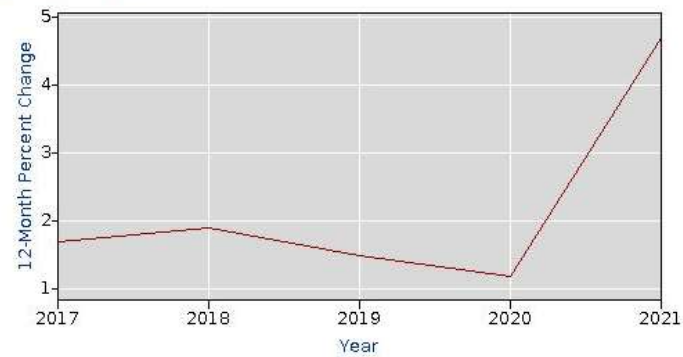
Series Id: CWURS23ASA0
Not Seasonally Adjusted

Series Title: All items in Chicago-Naperville-Elgin, IL-IN-WI, urban wage earners and clerical workers, not seasonally adjusted

Area: Chicago-Naperville-Elgin, IL-IN-WI

Item: All items

Base Period: 1982-84=100



Download: [xlsx](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2017	2.1	2.5	1.9	1.7	1.5	1.0	1.8	1.9	1.9	1.3	1.9	1.5	1.7	1.8	1.7
2018	1.6	1.6	1.7	2.1	2.5	2.5	2.2	2.0	1.9	2.4	0.9	0.8	1.9	2.0	1.7
2019	0.6	1.4	1.7	0.9	1.2	0.9	1.6	1.6	1.3	1.7	2.2	2.4	1.5	1.1	1.8
2020	2.8	2.1	1.1	0.0	0.1	1.0	1.0	1.1	1.5	1.1	1.0	1.1	1.2	1.2	1.1
2021	0.9	1.5	2.8	5.2	5.2	5.4	5.5	5.2	5.0	5.9	6.6	7.1	4.7	3.5	5.9
2022	7.4	7.5	8.5												

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CPI 2017 – 2022 (U.S. city average)

12-Month Percent Change

Series Id: CWUR0000SA0

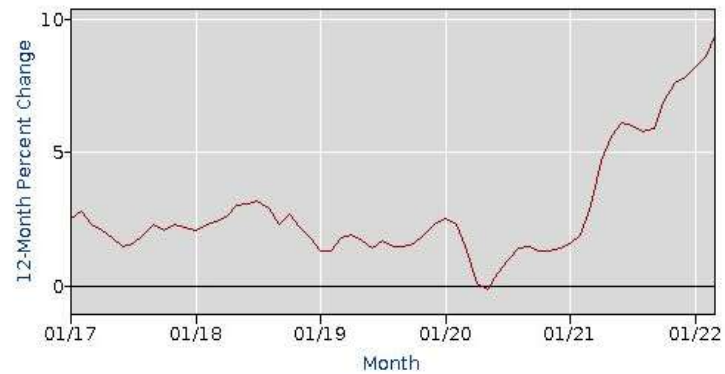
Not Seasonally Adjusted

Series Title: All items in U.S. city average, urban wage earners and clerical workers, not seasonally adjusted

Area: U.S. city average

Item: All items

Base Period: 1982-84=100



Download: [xlsx](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2017	2.5	2.8	2.3	2.1	1.8	1.5	1.6	1.9	2.3	2.1	2.3	2.2	2.1	2.2	2.1
2018	2.1	2.3	2.4	2.6	3.0	3.1	3.2	2.9	2.3	2.7	2.2	1.8	2.5	2.6	2.5
2019	1.3	1.3	1.8	1.9	1.7	1.4	1.7	1.5	1.5	1.6	1.9	2.3	1.7	1.6	1.7
2020	2.5	2.3	1.5	0.1	-0.1	0.5	1.0	1.4	1.5	1.3	1.3	1.4	1.2	1.1	1.3
2021	1.6	1.9	3.0	4.7	5.6	6.1	6.0	5.8	5.9	6.9	7.6	7.8	5.3	3.8	6.7
2022	8.2	8.6	9.4												

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CPI 2017 – 2022 (Midwest city average)

12-Month Percent Change

Series Id: CWUR0200SA0

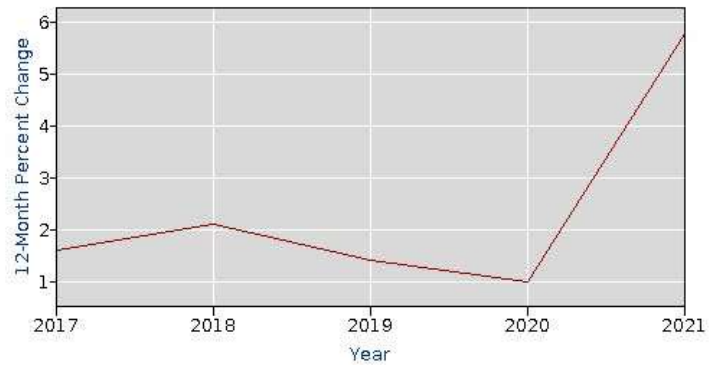
Not Seasonally Adjusted

Series Title: All items in Midwest urban, urban wage earners and clerical workers, not seasonally adjusted

Area: Midwest

Item: All items

Base Period: 1982-84=100



Download: [xlsx](#)

Year	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual	HALF1	HALF2
2017	2.3	2.5	1.8	1.7	1.2	0.6	1.2	1.3	1.5	1.4	2.1	1.7	1.6	1.7	1.5
2018	1.7	1.8	1.9	2.0	2.6	2.8	2.7	2.4	2.2	2.5	1.4	1.1	2.1	2.2	2.1
2019	0.5	1.1	1.6	1.6	1.3	1.1	1.4	1.4	1.3	1.3	1.9	2.5	1.4	1.2	1.6
2020	2.7	2.2	0.9	-0.8	-0.6	0.3	0.7	1.2	1.4	1.2	1.2	1.3	1.0	0.8	1.2
2021	1.4	2.0	3.4	5.7	6.5	6.8	6.8	6.4	6.4	7.6	8.2	8.5	5.8	4.3	7.3
2022	8.9	9.0	9.6												

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Impact of Inflation

- Tax revenues should increase but the Union is countering with cost of living (living wage) arguments
- The death of the CPI formula?
- Now we are competing with fast food and Amazon

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Strategies

- The planning process is more important than ever.
 - Revenue projections may need to be adjusted.
 - Be ready to depict salary/wage growth and the cost of benefits to the College.
 - The use of comparators.
- Consider Alternative Forms of Bargaining

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Traditional Bargaining

- Formal Process with respective teams in a traditional meeting setting.
- Proposals are developed away from the bargaining table to reflect the objectives of the College.
- Spokesperson selected to communicate proposals and positions on behalf of the College's bargaining team.
- Objective is to reach a compromise through the exchange of proposals and counterproposals.

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Traditional Bargaining

- Table Discussions
 - Primarily designed to facilitate presentation and explanation of proposals.
 - Presenting teams states rationale for the proposal.
 - Questions addressed.
 - Use of Caucus meetings to develop responses to questions and additional counter-proposals.
 - Use of Sidebar discussion to problem solve.

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Traditional Bargaining

- Disadvantages of Traditional Bargaining
 - Formality of process may inhibit open conversation and exchange of new ideas.
 - Structure of meetings with teams sitting across a table makes the process seem more adversarial.
 - Structure of process may provide less ability to address and resolve issues outside of contract language.

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IBB Format

- Interest based bargaining (“IBB”) goes by various names including, “win-win” and “mutual gains bargaining.”
- IBB dispenses with the use of a chief spokesperson and sequential exchanges of formal written proposals in favor of participation by many individuals and reliance on interest-based problem-solving techniques.

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IBB Format

- The process:
 - Participants identify issues – both union and employer.
 - Issues are to be framed as a joint problem.
 - Participants identify the various interests both parties have in the issue (participants are to avoid taking positions on the issues identified).

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IBB Format

Options into solutions

- Participants jointly brainstorm options and solutions. (No judging! No judging!)
- Participants apply “standards” or criteria to evaluate possible solutions or options. (Now you judge!)
 - Feasibility: Can the option be done
 - The Benefit: Does the option improve conditions
 - Acceptability: Can this option be approved

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IBB Format

- Other Features
 - No separate teams;
 - Limited caucus meetings;
 - Limited sidebar discussion;
 - Language issues are generally addressed first before you work on the economics.
- The Economics
 - Even in a well-run IBB process, the parties will usually revert to traditional bargaining when trying to resolve salary and other problematic economic issues.

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IBB Format

- The process relies on:
 - Extensive training of the bargaining teams – generally larger bargaining teams – in problem solving and listening techniques.
 - Commitment of all or most of the members of the board of trustees to participate in the training and interest based bargaining negotiation sessions.
 - A willingness of all the participants to follow the IBB format and principles.

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IBB Format

- Advantages:
 - Open exploration and discussion of issues may help promote better understanding and relationships.
 - Union may develop greater appreciation of boards limitations and interests.
 - Process may help dissipate acrimony built up over previous difficult negotiations.
 - The process usually entails an expedited process with a deadline.

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IBB Format

- Disadvantages:
 - Multiple participants in discussion raise possible contract language problems and grievances. Bargaining history is more difficult to discern and verify.
 - Individuals may be subject to personal attacks if parties do not adhere to interest based bargaining principles. Failure to stay committed to the process may damage, not help, labor relations.
 - The process demands significant time commitment of all participants.

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Questions?



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