

2026 IL App (4th) 250692-U

NOTICE

This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

NO. 4-25-0692

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

September 15, 2026

Carla Bender

4th District Appellate

Court, IL

THE BOARD OF TRUSTEES OF ILLINOIS STATE UNIVERSITY,	)	Direct Review from the
Petitioner,	)	Illinois Educational Labor
v.	)	Relations Board
THE ILLINOIS EDUCATIONAL LABOR RELATIONS BOARD and THE LAB SCHOOL EDUCATION ASSOCIATION, IEA-NEA,	)	No. 24-RC-13C
Respondents.	)	

JUSTICE DOHERTY delivered the judgment of the court, with opinion.
Justices Lannerd and Harris concurred in the judgment and opinion.

ORDER

¶ 1 *Held:* The Illinois Educational Labor Relations Board clearly erred in ordering the certification of 123 employees where the Heart of Illinois Low Incidence Association and the Board of Trustees of Illinois State University are joint employers of 22 of those employees.

¶ 2 In June 2024, the Lab School Education Association, IEA-NEA (Union) filed a petition seeking to represent 123 employees who work at Illinois State University's two Laboratory Schools (Lab Schools) and for the Heart of Illinois Low Incidence Association (HILIA) program. The Board of Trustees of Illinois State University (University) objected to the petition on the grounds that 22 of those employees were jointly employed by the University and HILIA and should be included in their own separate bargaining unit, as provided by the Illinois Educational Labor Relations Act (Act) (115 ILCS 5/1 *et seq.* (West 2024)). Finding that the 22 employees were solely employed by the University and not jointly employed by HILIA, the Illinois Educational Labor

Relations Board (Board) certified the bargaining unit.

¶ 3 The University now appeals, arguing that the 22 employees in question are joint employees and that, because it and HILIA have not consented to a mixed unit of jointly and solely employed workers, the unit petitioned for is inappropriate. We conclude that the Board's holding that the University and HILIA were not joint employers was clearly erroneous, so we reverse its order of certification.

¶ 4 I. BACKGROUND

¶ 5 A. Parties and Relationships

¶ 6 1. *The University*

¶ 7 The University's College of Education operates two Lab Schools: Thomas Metcalf School (Metcalf), for pre-kindergarten through eighth grade, and the University High School (U-High), for ninth through twelfth grades. These two schools are in separate buildings at the University, about one-half mile apart. Approximately 400 students attend Metcalf, and approximately 624 attend U-High.

¶ 8 Metcalf employs about 43 teachers, and U-High employs about 48. Metcalf and U-High occasionally share certain teachers in various subjects. Teachers at Metcalf and U-High are classified as faculty associates under the civil service classification system administered by the State Universities Civil Service System. In addition to faculty associates, Metcalf employs four teacher aides, two program coordinators, and a nurse. The nurse does occasional training at U-High. There is also a program assistant who works in the office of the director of the Lab Schools, as well as two semiprofessional employees providing extra help: a part-time lunchroom supervisor and a full-time bookkeeper (who is also is a part-time yearbook editor and ticket taker at athletic events). The assistant librarian position at Metcalf no longer exists following the 2023-24 school

year.

¶ 9

2. *HILIA*

¶ 10

HILIA is a joint educational program formed under section 10-22.31a of the School Code (105 ILCS 5/10-22.31a (West 2024)) to provide services for students with low incidence eligibility of deafness, hearing impairment, and visual impairment. HILIA is recognized by the Illinois State Board of Education (ISBE) as a legal educational entity and is governed by its member school districts through an approved joint agreement. The governing members include the University, Bloomington District 87, Livingston County Special Services Unit, Tri-County Special Education Association, McLean County Unit 5, and the De Witt-Livingston-Logan-McLean County Regional Office of Education No. 17 (ROE). ROE is the administrative and fiscal agent for HILIA.

¶ 11

HILIA provides services to students in over 30 school districts across Livingston, McLean, De Witt, and Logan counties. It provides those services in either the student's home district or the Lab Schools as determined by the student's Individualized Education Program. In the 2024-25 school year, 16 students received HILIA services at Metcalf, 1 at U-High, and approximately 200 in their home districts.

¶ 12

HILIA is governed by a five-person board comprised of Anthony Jones, the associate dean of the University's College of Education and director of the Lab Schools, and a special education director from each of the other four partnering entities. The HILIA board meets monthly to approve invoices and expenses for its services, to ensure the program's objectives are being met, and to determine the cost member districts will pay for services for their students.

¶ 13

Lisa Kendall is a University employee who serves as the HILIA director. She provides the HILIA budget for the board to review and approve. She also is authorized by the

board to create positions and post notices for applicants. The board has no role in selecting particular applicants to hire or in disciplining or discharging HILIA employees.

¶ 14 Kendall, with Jones’s approval, will select a person to hire for posted positions. She is responsible for conducting evaluations of the HILIA staff. Kendall also has the authority to discipline or discharge employees consistent with the University’s discipline and discharge procedures for faculty associates, as set forth in the University’s Faculty Associate Handbook (Handbook) or those set forth in the University’s policies and the State Universities Civil Service Act (110 ILCS 70/0.01 *et seq.* (West 2024)) for other civil service employees.

¶ 15 HILIA is headquartered at the Lab Schools. In addition to Kendall, its staff includes an office manager and 22 other employees: 17 faculty associates, 1 special education audiologist, 2 interpreters for the hearing impaired, and 2 special education paraprofessionals. The University also employs a skilled substitute teacher assigned to HILIA staff who provides speech-language pathology services.

¶ 16 Some HILIA faculty associates are itinerants and work only at the HILIA member school districts, some work only at the Lab Schools, and others split their time between HILIA member school districts and the Lab Schools. HILIA assigns its employees to their locations and courses. The University has no ability to assign or reassign HILIA employees to different locations or courses at the Lab Schools.

¶ 17 *3. University and HILIA Functions and Duties*

¶ 18 The University’s faculty associates are subject to the Handbook, and HILIA faculty associates are subject to the same Handbook. The Handbook addresses the terms and conditions of employment, including, but not limited to, hiring; compensation; benefits (sick days, personal days, bereavement, vacation days, jury duty, educational leave, family and medical leave, parental

leave, tuition waivers); absence procedures; probationary periods; discipline and dismissal; a grievance process; performance evaluations; flexible work schedules; layoffs; and additional opportunities for compensation. HILIA itinerants are subject to a separate handbook Kendall has developed.

¶ 19 HILIA faculty associates teach in classrooms that contain only HILIA students, work one-on-one with students, and sometimes assist with HILIA students in general education Lab School classes. If a HILIA student is in a general education class, the University faculty associate will have much more contact with the HILIA staff to consult regarding a mutual understanding of concepts being taught and terminology being used, overall student progress, and creation of learning aids. HILIA faculty associates will also consult with University faculty associates to ensure that their HILIA-only student classes are progressing consistently with the general education classes.

¶ 20 HILIA interpreters for the hearing impaired and special education paraprofessionals may also be present in general education Lab School classes with HILIA students and may also assist students with visual and hearing impairments during gym classes, lunch, and recess.

¶ 21 HILIA and University faculty associates serve on various committees and teams together, attend general faculty meetings, and participate in various trainings and professional development sessions. HILIA faculty associates who primarily work at the Lab Schools will also have various contact with the HILIA itinerants at scheduled HILIA meetings and through occasional discussions regarding common issues in dealing with vision or hearing impaired students.

¶ 22 The University, HILIA, and the school districts participating in the HILIA program

are parties to an educational services agreement (ESA). Under the ESA, the University agrees to administer an educational program for HILIA students. The University employs and pays the salaries and benefits for all HILIA faculty associates and staff. HILIA, through its administrative agent, the ROE, then reimburses the University for the salaries paid and for other expenses, such as the purchase of necessary equipment or building remodeling. The cost of benefits like health, dental, vision, and life insurance, as well as contributions to the State University Retirement System, is not reimbursed.

¶ 23 B. Petition and Administrative Hearing

¶ 24 In June 2024, the Union petitioned the Board to represent 123 workers employed by the University in the Lab Schools and HILIA program. The employees at issue had been unrepresented for purposes of collective bargaining. Twenty-two of the 123 employees provided services to HILIA students.

¶ 25 The University objected to the petition on the grounds that the 22 employees providing services to HILIA students should be in a separate bargaining unit because they were jointly employed by the University and HILIA, rather than solely employed by the University. The University's position was that these 22 HILIA program employees should be included in their own separate, stand-alone bargaining unit.

¶ 26 A two-day administrative hearing was conducted before an administrative law judge (ALJ) in September 2024, following which the Union and the University filed posthearing briefs.

¶ 27 C. ALJ's Recommended Decisions and Order

¶ 28 After the completion of the hearing and submission of posthearing briefs, the ALJ entered his recommended decision and order (RDO). The ALJ identified the primary dispute

between the Union and University as whether the petitioned-for unit was appropriate under section 7(a) of the Act (115 ILCS 5/7(a) (West 2024)). The ALJ made findings of fact based upon the testimony and documentary evidence in the record and found, for purposes of this appeal, that the University was the sole employer of all 123 petitioned-for employees, and HILIA was not a joint employer of any of them.

¶ 29 The ALJ applied the Illinois Supreme Court’s test for the existence of a joint employer relationship to his findings of fact to determine that the University and HILIA were not joint employers. Specifically, the ALJ focused on the University’s control. The ALJ found that the University paid the salaries and benefits of the HILIA teachers and staff. The ROE and HILIA board knew the identity of the HILIA program employees and determined the rate at which the University was reimbursed for their salaries and other program expenses but did not reimburse the University for the cost of benefits.

¶ 30 When it came to hiring and discipline, the ALJ found that Kendall and Jones, both University employees, held that authority. While the HILIA board authorized Kendall to create and post positions, it had no role in selecting who was hired. Similarly, the HILIA board had no role in the discipline or discharge of HILIA employees. Discipline and discharge were handled according to University personnel policies. The University, through Kendall and Jones, had an exclusive role in the actual day-to-day supervision and direction of employees on the job.

¶ 31 The ALJ approved the Union’s proposed bargaining unit, including the 22 HILIA program employees.

¶ 32 D. University Exceptions

¶ 33 The University filed exceptions to the ALJ’s RDO. Specifically relating to this appeal, the University argued that the ALJ erroneously concluded that the University was not a

joint employer along with HILIA of the 22 HILIA program employees. The University excepted the ALJ's (1) minimization of HILIA's financial contribution to employee salaries; (2) ignorance of HILIA's role in the direction, supervision, hiring, and discipline of HILIA employees; (3) minimization of the HILIA board's role; and (4) ignorance of HILIA's role in approving the HILIA budget and determining the cost member districts will pay for services used to pay employee salaries.

¶ 34 The Union filed a response to the University's exceptions. Specifically, the Union argued that the ALJ correctly weighed the *Orenic v. Illinois State Labor Relations Board*, 127 Ill. 2d 453, 475 (1989)), factors in concluding that HILIA is not a joint employer. Further, the Union argued that the ALJ did not minimize HILIA's minor role over employment matters.

¶ 35 E. The Board's Final Administrative Decision and Certification

¶ 36 On May 21, 2025, the Board issued an Opinion and Order rejecting the University's exceptions and affirming the ALJ's finding that the University is the sole employer of the employees in the petitioned-for unit and that the petitioned-for unit is appropriate under section 7 of the Act (115 ILCS 5/7 (West 2024)). On May 30, 2025, the executive director issued an order of certification that certified the Union as the exclusive representative for purposes of collective bargaining for all of the employees identified in the petition.

¶ 37 The University appealed directly to this court. See *id.* § 16(a) ("[J]udicial review shall be taken directly to the Appellate Court of a judicial district in which the Board maintains an office.").

¶ 38 II. ANALYSIS

¶ 39 The University argues that the Board erred in concluding that HILIA and the University were not joint employers of the 22 HILIA program employees and in certifying a

combined bargaining unit that included those employees. The University argues that HILIA has significant control of HILIA program employees and that excluding HILIA from the bargaining process would negatively impact any meaningful negotiations regarding employment terms and conditions. The University also argues that the petitioned-for unit is inappropriate because the University and HILIA have not consented to a mixed unit of jointly and solely employed employees. HILIA was permitted to submit a brief as *amicus curiae* in support of the University's position. Ill. S. Ct. R. 345 (eff. Sept. 20, 2010).

¶ 40 The Union and the Board argue that the Board did not clearly err in concluding that HILIA and the University were not joint employers. Specifically, they argue that the University exerts sole control over the 22 HILIA program employees. They also argue that if HILIA was included as a joint employer, it would only complicate and obstruct an effective collective bargaining process for the petitioned-for unit.

¶ 41 A. Standard of Review

¶ 42 The Board's determinations are subject to judicial review in accordance with the Administrative Review Law (735 ILCS 5/3-101 *et seq.* (West 2024)). See 115 ILCS 5/7(d) (West 2024). Administrative review of the Board's decision "extends to all questions of law and fact presented by the record." *Western Illinois University v. Illinois Educational Labor Relations Board*, 2021 IL 126082, ¶ 30 (citing 735 ILCS 5/3-110 (West 2016)). "The applicable standard of review, which determines the degree of deference given to the agency's decision, depends upon whether the question presented is one of fact, one of law, or a mixed question of law and fact." *AFM Messenger Service, Inc. v. Department of Employment Security*, 198 Ill. 2d 380, 390 (2001).

¶ 43 "An agency's findings of fact will be deemed *prima facie* true and correct unless they are against the manifest weight of evidence." *Western Illinois University*, 2021 IL 126082,

¶ 30. “Factual determinations are against the manifest weight of the evidence if the opposite conclusion is clearly evident.” *Beggs v. Board of Education of Murphysboro Community Unit School District No. 186*, 2016 IL 120236, ¶ 50. “An agency’s findings on questions of law are reviewed *de novo*.” *Western Illinois University*, 2021 IL 126082, ¶ 30.

¶ 44 “A mixed question of law and fact is reviewed for clear error.” *Id.* “A mixed question of law and fact asks the legal effect of a given set of facts.” *Board of Education of City of Chicago v. Illinois Educational Labor Relations Board*, 2015 IL 118043, ¶ 16. In resolving such questions, “a reviewing court must determine whether established facts satisfy applicable legal rules.” *Id.* An agency’s conclusion on a mixed question of law and fact “is ‘clearly erroneous’ when the reviewing court is left with the definite and firm conviction that a mistake has been committed.” *Id.* The clearly erroneous standard is highly deferential but “does not relegate judicial review to mere blind deference of an agency’s order.” (Internal quotation marks omitted.) *Western Illinois University*, 2021 IL 126082, ¶ 70.

¶ 45 Here, the Board made factual findings regarding HILIA and the University’s control over the 22 HILIA program employees. Although the facts here are not in dispute, the conclusions to be drawn from them are. We are therefore required to examine the legal effect of the relevant facts. As such, these are mixed questions of law and fact, and the parties agree that we should employ the clearly erroneous standard of review.

¶ 46 B. Employer Status

¶ 47 In this case, the University’s status as an employer of the 22 HILIA program employees is undisputed. However, the fact that the University is *an* employer does not preclude a finding that HILIA jointly employs the same 22 workers.

¶ 48 Under the Act, “ ‘[e]ducational employer’ or ‘employer’ means the governing body

of a public school district, ***including the governing body of joint agreements of any type formed by 2 or more school districts, public community district or State college or university.” 115 ILCS 5/2(a) (West 2024). Here, it is undisputed that HILIA is a joint educational program formed under section 10-22.31a of the School Code (105 ILCS 5/10-22.31a (West 2024)) and governed by its member school districts through an approved joint agreement. None of the parties has argued that HILIA does not, or cannot, qualify as an educational employer or employer under the Act. We now turn to the question of whether the University and HILIA are joint employers of the 22 HILIA program employees.

¶ 49

C. Joint Employer Status

¶ 50

The test for joint employment is “whether ‘two or more employers exert significant control over the same employees—where from the evidence it can be shown that they share or co-determine those matters governing essential terms and conditions of employment.’ ” *Orenic*, 127 Ill. 2d at 474 (quoting *National Labor Relations Board v. Browning-Ferris Industries of Pennsylvania, Inc.*, 691 F.2d 1117, 1124 (3d Cir. 1982)). The factors that are relevant to the determination of joint employment “include the putative joint employer’s role in ‘hiring and firing; promotions and demotions; setting wages, work hours, and other terms and conditions of employment; discipline; and actual day-to-day supervision and direction of employees on the job.’ ” *Id.* at 475 (quoting J. Jansonius, *Use and Misuse of Employee Leasing*, 36 Lab. L.J. 35, 36 (1985)). Additional factors include the authority to tax and raise funds and to approve budgets and grant financing. *County of Kane v. Illinois State Labor Relations Board*, 165 Ill. App. 3d 614, 622 (1988). “The key consideration in determining employer status is ‘the extent to which an entity is necessary to create an effective bargaining relationship.’ ” *County of Will v. Illinois State Labor Relations Board*, 220 Ill. App. 3d 62, 65 (1991) (quoting *City of Rockford v. Illinois State Labor*

Relations Board, 158 Ill. App. 3d 166, 173 (1987)).

¶ 51

D. This Case

¶ 52 The Union and Board rely heavily upon *Orenic* when identifying the test for joint employers. We wish to be clear that *Orenic* accurately lays out the legal test for determining joint employment, but its holding is not directly controlling here due to a material factual distinction. *Orenic* concluded that, based on Illinois labor and constitutional separation of powers concerns, a county board cannot be considered a joint employer of judicial branch employees, even if it provides the funding for their salaries. *Id.* at 476-79. *Orenic* focused on “constitutional tripartite separation of powers.” *Id.* at 476. Here, we are not dealing with constitutional law or separation of powers issues, nor are we dealing with a relationship that is specifically defined or controlled by statute. Instead, we are tasked with a straightforward consideration of the relevant factors relating to the existence of a joint employer relationship, factors that are well articulated in *Orenic*.

¶ 53

1. *Hiring and Firing*

¶ 54 Kendall is a University employee who also serves as HILIA’s director. She is the primary point of contact for the HILIA program and HILIA personnel with respect to employee hiring, evaluation, discipline, supervision, and firing at both the Lab Schools and in the HILIA students’ home school districts. When a HILIA position is vacant or there is a need to create a position based on changes in enrollment, Kendall prepares a job description to present to the HILIA board, which in turn determines the total number and types of positions it will fill for its program. It must decide whether to approve the job descriptions prepared by Kendall.

¶ 55

The job descriptions admitted into evidence during the hearing identified the anticipated hours per week; required and preferred qualifications; a general summary; an indication of work site location and possible alternative assignments; a description of the

organizational relationship; and potential salary grade. The job descriptions identify HILIA as the department with the vacancy and Kendall as the supervisor. The HILIA board reviews these elements of each job description before either approving or disapproving of it. Some of these very matters, such as the hours to be worked each week, are central to the employment relationship and could be the subject of collective bargaining negotiations.

¶ 56 Once the HILIA board approves the vacancy or new position, Kendall submits the position to the University to fill through its hiring processes. Once a candidate is selected through the University process, that candidate does not require additional HILIA board approval before becoming an employee of the University for the HILIA program.

¶ 57 The employee selected through this process can work in only the HILIA program and cannot be transferred into another position within the University's Lab Schools. Some workers hired will be subject to the University's employment policies and handbooks, but those hired to work in the HILIA students' home school districts are not. Instead, they are provided with a guidance document that contains internal practices for HILIA personnel working in students' home school districts. In other words, for these workers, HILIA sets work policies at least to the degree that the University does.

¶ 58 Pursuant to Paragraph 10 of the ESA, the University assumes the responsibility of ensuring that the Lab School staff meet all applicable certification requirements. However, the 22 HILIA program employees include more than just Lab School employees. They also include employees working in the home school districts, as well as some that work within both the home school district and the Lab Schools. At least according to the ESA, the University does not assume responsibility for ensuring that HILIA employees working outside of the Lab School meet all applicable certification requirements.

¶ 59 In our view, the facts here demonstrate that each party has substantial decision-making authority in regard to the hiring process. HILIA decides the positions, their requirements, and work duties and location, and it prepares job descriptions reflecting those decisions. From there, the University handles the posting and hiring process on the job terms decided by HILIA. Each party depends on the other in the hiring process.

¶ 60 *2. Day-to-Day Supervision*

¶ 61 HILIA assigns the 22 program employees to their job locations and courses, decisions over which the University has no control or authority to change. Kendall is the responsible supervisor of the 22 HILIA program employees; she has no supervisory role with respect to the University's other Lab School employees. She conducts evaluations of staff and initiates discipline and, when required, discharge. These facts demonstrate shared supervisory authority over the 22 HILIA program employees.

¶ 62 Noting that Kendall is a University employee, the Board and the Union conclude that this factor shows the University's control over day-to-day operations. This is a myopic view of the situation, because Kendall is also HILIA's director.

¶ 63 Despite her title, the Board and the Union argue that Kendall only serves the interests of the University and not those of HILIA; the Union went so far as to suggest at oral argument that Kendall is the director of "ISU's HILIA Program." The fact that one member has been chosen to serve the administrative needs of HILIA—and to be reimbursed for doing so by decision of the group—does not erase the involvement of the Board or the interests of the member districts. Pursuant to statute, the joint agreement between the parties is intended to allow HILIA to "provide the needed educational facilities and to employ a director and other professional workers for such program." 105 ILCS 5/10-22.31a (West 2024). The fact that the "director and other

professional workers may be employed by one district” (*id.*) does not mean that the director and workers are not serving the interests of HILIA as a group. Kendall may be employed by the University, but it employs her to serve as director of HILIA’s program. Again, the issue is whether HILIA is a joint employer, and the Board and the Union cannot carry the day simply by pointing to the fact that the University is *also* an employer.

¶ 64 We do not agree that the University has forfeited the argument that, although a University employee, Kendall is also an agent of HILIA. Kendall’s authority was plainly at issue below, and we could scarcely discuss the issue at all without understanding Kendall’s authority to act for both parties. Furthermore, where an issue (such as, here, Kendall’s authority) is raised below, we do not limit parties “to the same arguments that were made below.” *Brunton v. Kruger*, 2015 IL 117663, ¶ 76. The University cannot be said to have forfeited an issue so central to the matters that must be decided. The role played by Kendall *for HILIA* is patent on the face of the record.

¶ 65 In our view, the fact that 22 program employees are supervised by a person wearing two hats—University employee and HILIA director—is entirely consistent with the two entities acting in concert as joint employers.

¶ 66 3. *Other Factors*

¶ 67 The ESA also specifies that an ROE/ISU budget will be approved annually in support of the ESA. Those educational services recommended by the Lab Schools and incorporated in the ROE/ISU budget must be approved by the HILIA board. The budget includes the costs of programming at the Lab Schools as well as at the HILIA students’ home school districts, personnel salaries, professional development fees and expenses, material expenses, equipment expenses, and possibly mileage or travel expenses. The budget proposed to the HILIA

board typically includes the possibility of an annual University salary increase. The budget does not include benefits like health or life insurance or retirement because the University, not HILIA, is responsible for those benefits packages. Of significance here is the fact that, if the University wished to exceed or modify the approved budget in a given educational year, the HILIA board would have to approve any such alteration. Because the budget can impact the wages to be paid to the 22 HILIA program employees, it means that HILIA has authority over matters which may be a subject of collective bargaining.

¶ 68 *4. Consideration of All Factors*

¶ 69 Our review of the evidence shows that the University and HILIA are inextricably intertwined in the management and control of the 22 HILIA program employees. Though the University exercises a greater deal of control, it is undeniable that HILIA also exercises substantial authority and control over different aspects of the terms and conditions of the employment of the 22 HILIA program employees. In short, the University and HILIA have agreed to collaborate on the staffing of the HILIA program, and their efforts appear to be part of one scheme with shared control. Two parties sharing a degree of control over program employees is the essence of joint employment.

¶ 70 The Board and Union are incorrect in arguing that HILIA's only control over the 22 HILIA program employees is through its board's approval of a budget and ROE reimbursement of the University's expenses. Though the University's funding does pass through HILIA, it would be inaccurate to characterize HILIA as simply a pass-through entity. HILIA was created by statute with a specific purpose, and it must maintain a certain level of control over its employees—even if to a lesser degree than does the University—to achieve its purposes.

¶ 71 Beyond the employment control terms, another important factor to consider in the

joint employer relationship is the extent to which HILIA is necessary to create an effective bargaining relationship. See *City of Rockford*, 158 Ill. App. 3d at 173 (“The key consideration in determining employer status is the extent to which an entity is necessary to create an effective bargaining relationship.”). In their briefing, the Union and the Board have attempted to downplay the importance of having HILIA involved in the bargaining relationship, suggesting that doing so would actually complicate the bargaining process. However, funding directly affects negotiations over wages. See *id.* HILIA has a direct effect on the University’s funding of wages to the 22 petitioned-for HILIA employees because HILIA not only establishes the positions to be created, but it approves the potential salary grade for each position and a budget authorizing reimbursement of those amounts to the University.

¶ 72 It is difficult to conceive of how the employees could collectively bargain with the University without HILIA being at the table, but it is easy to see how the results of such negotiation would necessarily implicate matters over which HILIA itself has authority. A meaningful collective bargaining process cannot take place with respect to the 22 HILIA program employees absent HILIA’s involvement.

¶ 73 Applying the law to the facts adduced below, we find that the relevant factors clearly indicate that HILIA was a joint employer of the 22 HILIA program employees for purposes of the Act, leaving us with a “definite and firm conviction” that the Board’s contrary conclusion was erroneous. *Board of Education of City of Chicago*, 2015 IL 118043, ¶ 16. Neither the Board nor the Union disagree with the University’s position that, if the employees in question are joint employees, the certification cannot stand where the record does not show HILIA’s consent. Consequently, reversal is required.

¶ 74

III. CONCLUSION

¶ 75 For the reasons stated, we reverse the Board's order of certification. As requested by the University, we remand the case to the Board for further consideration consistent with this opinion.

¶ 76 Reversed and remanded.