

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WISCONSIN FEDERATION OF TEACHERS,
 AFL-CIO,

 Complainant,

 vs.

 JOINT SCHOOL DISTRICT NO. 1,
 CITY OF FOND DU LAC, ET AL,

 Respondent.

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Case III
 No. 11238 MP-38
 Decision No. 7909-B

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by
Mr. Kenneth R. Loebel, for the Complainant.
Mr. John C. Murphy, City Attorney of Fond du Lac,
 for the Respondent.
Mr. F. Halsey Kraege, Attorney at Law, for the
 Wisconsin Education Association.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER

The above entitled matter having come on for hearing on March 22, 1967, at Madison, Wisconsin, before the Wisconsin Employment Relations Board, now known as the Wisconsin Employment Relations Commission, before Chairman Morris Slavney, Commissioner Arvid Anderson and Commissioner Zel S. Rice II, and the Commission having considered the evidence and arguments and briefs of counsel, and being fully advised in the premises, makes and files the following Findings of Fact, Conclusion of Law and Order.

FINDINGS OF FACT

1. That the Complainant, Wisconsin Federation of Teachers, AFL-CIO, hereinafter referred to as the WFT, is an employe organization having its offices at 7230 West Capitol Drive, Milwaukee, Wisconsin, and has as its affiliates various local organizations consisting of teachers employed in various school districts throughout the State of Wisconsin, including the Fond du Lac Federation of Teachers, Local 1004, hereinafter referred to as FTU.
2. That the Respondent, Joint School District No. 1, City of Fond du Lac, et al, hereinafter referred to as the School Board, has its principal office at 135 East Merrill

Avenue, Fond du Lac, Wisconsin; that it maintains and operates public schools in said community; and in that regard employes, among others, certificated teaching personnel.

3. That Fond du Lac Education Association, hereinafter referred to as the FEA, is an employe organization, existing for the purpose of representing teachers in the employ of the School Board, in conferences and negotiations on matters pertaining to the conditions of their employment; that it has its offices at Fond du Lac, Wisconsin; that the FEA is affiliated with the Wisconsin Education Association, hereinafter referred to as the WEA, an employe organization having its offices at Madison, Wisconsin; and that the WEA has, as its affiliates, various local associations consisting of teachers employed in various school districts throughout the state of Wisconsin.

4. That historically for the past number of years prior to 1966, the WEA and the WFT have held their annual conventions on the first Thursday and Friday of November of each year; that on January 24, 1966, prior to the establishment of an exclusive collective bargaining representative for certificated teachers in the employ of the School Board and after representatives of the School Board met with representatives of the FTU and the FEA in discussions on salaries and other conditions of employment for teachers in the employ of the School Board for the school year 1966-1967, the School Board adopted its calendar for the school year 1966-1967, wherein it designated November 3 and 4, 1966 as dates on which school would be closed because of "Teachers' Convention".

5. That prior to April 15, 1966, the teachers in the employ of the School Board executed individual teacher contracts on the basis of the conditions of employment established by the School Board, including the calendar adopted by it for the school year 1966-1967.

6. That on September 19, 1966, after the WFT had determined to change its practice with respect to the dates on which its annual convention was held, the President of the FTU, by letter, advised the School Board and its Superintendent of the fact that the WFT was to hold its annual convention on October 6 and 7, 1966, and that members of the FTU planned to attend

that convention in Milwaukee on said dates; that further in this correspondence the FTU requested permission that its teacher members be excused on said dates and further indicated that those who attended the WFT convention would report to their various school buildings on November 3 and 4, 1966, unless said members also were members of the WEA and desired to attend the latter convention on the latter dates; that on September 26, 1966, said request of the FTU was considered by the School Board at one of its meetings; and that following the consideration of said request, the School Board adopted the following resolution:

"WHEREAS a request has been received from Local #1004 Fond du Lac Federation of Teachers dated September 19, 1966 concerning the release of members of this local to attend the convention of the Wisconsin Federation of Teachers on October 6-7, 1966,

AND WHEREAS the school calendar for 1966-67 was adopted on January 24, 1966 which accommodated November 3-4, 1966 as convention dates; and since school calendars must be set well in advance to permit proper and intelligent long range planning,

AND WHEREAS the matter of convention dates was not discussed during the meetings of the Teacher and Text Committee and the Joint Welfare Committee during 1966, and the Board received no advance official notice of the request

NOW THEREFORE BE IT RESOLVED that the Board of Education will authorize attendance at this October 6-7, 1966 convention by only official delegates, properly certified in writing in advance; the official certified delegates may attend without loss of pay, and the central office will secure substitutes for the official delegates.

BE IT FURTHER RESOLVED that any and all other district employees attending this convention would do so on a personal basis only at full loss of pay."

7. That following the adoption of said resolution, and on October 4, 1966, the FTU, in a letter by its President to the School Board, protested the action of the School Board with respect to the aforementioned resolution and advised further

that seven of its members would attend the WFT convention on both dates and that ten additional members would attend on one date; that at no time prior to the attendance of the WFT convention by any member of the FTU, did the FTU advise the School Board as to the names of any of its members who would attend the convention of the WFT as official delegates; that those teachers who did attend the WFT convention were not paid for the day or days on which they absented themselves from their teaching duties as a result of such attendance; that on November 3 and 4, 1966, the School Board closed its schools as provided in the school calendar and that all teachers in the employ of the School Board, regardless of whether they attended the WEA Convention, were paid by the School Board as if they had taught school on said dates.

8. That the School Board, by adopting the aforementioned resolution and by refusing to pay teachers for the days they absented themselves from their teacher's duties as a result of attending the WFT convention on October 6 and/or 7, 1966, did not interfere, restrain or coerce any of the teachers in its employ, with regard to their right to engage in any concerted activity on behalf of the WFT, the FTU, or any other employe organization of their choosing.

Based upon the foregoing Findings of Fact, the Commission makes the following

CONCLUSION OF LAW

1. That Joint School District No. 1, City of Fond du Lac, et al, by adopting the resolution on September 26, 1966, with respect to the denial of compensation to teachers who absented themselves to attend the annual convention of the Wisconsin Federation of Teachers on October 6 and 7, 1966, and by refusing to pay teachers for the days they absented themselves from their teaching duties as a result of attending the Wisconsin Federation of Teachers teachers' convention on October 6 and 7, 1966, did not commit, and is not committing any prohibited practice within the meaning of Section 111.70 of the Wisconsin Statutes.

Upon the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes the following

ORDER

IT IS ORDERED that the complaint filed in the instant matter be, and the same hereby is, dismissed. 1/

Given under our hands and seal at the City of Madison, Wisconsin, this 3rd day of August, 1967.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney /s/
Morris Slavney, Chairman

Arvid Anderson /s/
Arvid Anderson, Commissioner

Zel S. Rice II /s/
Zel S. Rice II, Commissioner

1/ The teacher convention dates set forth in the school calendar were arrived at after discussions with both teacher organizations, which acquiesced therein. Under the circumstances the request of the Fond du Lac Federation of Teachers to change the school calendar was properly denied.