

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

WISCONSIN HEIGHTS FEDERATION OF
TEACHERS

Involving Certain Employees of

JOINT SCHOOL DISTRICT NO. 1 OF THE
VILLAGES OF BLACK EARTH, MAZOMANIE,
ET AL, DANE AND IOWA COUNTIES,
WISCONSIN

Case I
No. 12438 ME-411
Decision No. 8854

DIRECTION OF ELECTION

Petition having been filed on October 30, 1968, by the Wisconsin Heights Federation of Teachers, hereinafter referred to as the Petitioner, to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of the above named Municipal Employer; and a hearing on said petition having been conducted at Mazomanie, Wisconsin, on December 12, 1968, by Examiner Herman Torosian; and during the course of the hearing Wisconsin Heights Association of Teachers having been permitted to intervene in the proceeding on the basis that it is the recognized bargaining representative of certain employees in the proposed bargaining unit pursuant to the terms of a collective bargaining agreement existing between it and the Municipal Employer; and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation for certain employees of the Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this directive in the collective bargaining unit consisting of all regular full-time and regular part-time certificated personnel including classroom teachers, librarians, guidance counselors and other special teachers, but excluding the District Administrator, Assistant Administrators,

Supervisors, Principals, Vice Principals, Specialists in administrative capacity, Interns, clerical and custodial employees, who were employed by the Municipal Employer on December 12, 1968, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether or not a majority of such employees desire to be represented by Wisconsin Heights Federation of Teachers, or by Wisconsin Heights Association of Teachers, or by neither of said organizations for the purposes of conferences and negotiations with the above named Municipal Employer on questions of wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin, this 27th
day of January, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Zel S. Rice II
Zel S. Rice II, Commissioner

William R. Wilberg
William R. Wilberg, Commissioner

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

At the hearing conducted on December 12, 1968, Wisconsin Heights Association of Teachers was allowed to intervene on the basis that said organization currently represents the same employees petitioned for by the Petitioner.

The parties stipulated, in the event the Commission should direct an election, that the appropriate unit consists of all regular full-time and regular part-time certificated personnel including classroom teachers, librarians, guidance counselors and other special teachers, but excluding the District Administrator, Assistant Administrators, Supervisors, Principals, Vice Principals, Specialists in administrative capacity, Interns, clerical and custodial employees. The Intervenor, however, contends that the Commission should not entertain the instant petition, which was filed with the Commission on October 30, 1968, on the basis that said petition was prematurely filed. The Intervenor cites the Wauwatosa Board of Education and City of Milwaukee cases^{1/} in support of its position. The Intervenor and the Municipal Employer are parties to a collective bargaining agreement covering the salaries and other conditions of employment of the employees employed in the above described bargaining unit. Said agreement contains among its provisions the following with respect to its terms:

1/ Wauwatosa Board of Education, Dec. No. 8300-A, 2/68; and City of Milwaukee, Dec. No. 8622, 7/68.

"This agreement shall be binding until September 1, 1969, and shall be considered as renewed from year to year thereafter unless either party hereto shall give written notice to the other of their desire to have same modified. Such notice must be given 90 days prior to the first day of March for budgetary items and 30 days prior to the first day of March for non-budgetary items.

"If modifications are desired, such modifications shall be contained in such notices. If such notice is not given, then this agreement is to stand as renewed for the following year."

The Intervenor contends that, in accordance with the Commission's policy expressed in the Wauwatosa Board of Education and the City of Milwaukee cases, a petition for an election among the employees involved herein can only be filed within the sixty (60) day period prior to March 1, 1969, since the latter date is six months prior to September 1, 1969, the date upon which the present agreement would expire unless automatically renewed.

In Wauwatosa Board of Education the Commission set forth the following with respect to the timely filing of election petitions:

"Where there presently exists a collective bargaining agreement covering the wages, hours and conditions of employment of employees in an appropriate collective bargaining unit, the petition must be filed within the sixty (60) day period prior to the date provided in said agreement for its reopening. Where the conditions of employment are reflected in an ordinance or resolution, the petition must be filed within the sixty (60) day period prior to the date reflected in the resolution or ordinance for the commencement of negotiations for changes in wages, hours and working conditions of the employees in the unit covered by said resolution or ordinance."

Subsequently the Commission modified the above policy in City of Milwaukee, as follows:

"Where there presently exists a collective bargaining agreement, resolution or ordinance covering the wages, hours and conditions of employment of employees in an appropriate collective bargaining unit, a petition requesting an election among said employees must be filed within the 60-day period prior to the date reflected in said agreement, resolution or ordinance for the commencement of negotiations for changes in wages, hours and working conditions of the employees in the unit covered thereby unless the period of negotiations as set forth therein extends beyond six months prior to the budgetary deadline date of the municipal employer involved. In the latter event, petitions for elections will be enter-

In the City of Milwaukee matter the incumbent bargaining representative and the City in accordance with their agreement had commenced negotiations some eleven months prior to the termination date of the agreement, and the petitioning Union filed its petition for election thereafter but at least six months prior to the budgetary deadline date. In the instant proceeding the incumbent representative and the School Board had not as yet commenced negotiations at the time of filing the petition, nor at the time of the hearing, which was held on December 12, 1968.

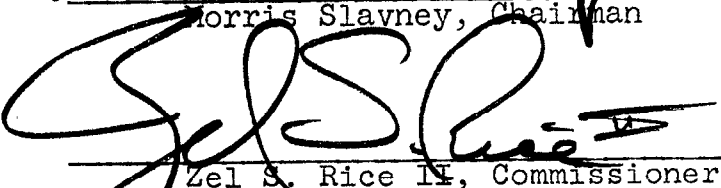
Under the policy adopted in the City of Milwaukee the Petitioner could have timely filed its petition within 60 days prior to January 28, 1969.^{2/} Therefore, under ordinary conditions the Commission would dismiss the petition because it was not timely filed. The Commission will continue to apply the policy adopted in the City of Milwaukee. However, if the Commission dismissed the petition in the instant matter, the Petitioner could immediately refile its petition. Since the direction is being issued so close to the end of the 60-day period for the timely filing of the instant petition, the Commission in order to avoid the necessity of a repetitious processing of the petition, as well as a repetitious hearing, has directed the election.

Dated at Madison, Wisconsin, this 27th day of January, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner

^{2/} The budgetary deadline date is statutorily established as July 28, 1969, Secs. 65.90, 120.08(1)(a) and 120.10.