

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

CITY OF BELOIT, a Municipal Corpor-
ation, by the BELOIT CITY SCHOOL
BOARD, its Agent

Requesting a Declaratory Ruling Pur-
suant to Section 111.70(4)(b) Wis.
Stats., Involving a Dispute between
Said Petitioner and

BELOIT EDUCATION ASSOCIATION

Case V
No. 16732 DR(M)-43
Decision No. 11831-D

ORDER REGARDING MOTION FOR RECONSIDERATION

The Wisconsin Employment Relations Commission having, on September 11, 1974, issued a Declaratory Ruling in the above entitled matter, wherein it found, among other things, that proposals, submitted in collective bargaining by the Beloit Education Association to the City of Beloit and its agent, the Beloit City School Board, pertaining to providing "assistance to a teacher having professional difficulties or any techniques relating to such assistance" related to the management of the School District operated by said Municipal Employer, and further that the "class size" proposal of the Association related to basic educational policy, however, should the matter contained in the latter proposal be implemented by the Municipal Employer that such matter will have an impact on wages, hours and working conditions of employees in the employ of said Municipal Employer; that therein the Commission concluded that therefore the Municipal Employer was not required to engage in collective bargaining, as defined in Section 111.70(1)(d) of the Municipal Employment Relations Act, with said Association on said proposals, except insofar as the "class size" proposal affect wages, hours and conditions of employment of said teachers; and that on September 23, 1974, said Association having filed a motion with the Commission, and a brief in support thereof filed October 4, 1974, that the Commission reverse its determinations with regard to both of said proposals, by finding that such proposals primarily relate to wages, hours and working conditions, and that, therefore, the subject matter of said proposals are subject to mandatory bargaining within the meaning of the above cited statutory provision; and that, further in said motion, the Association having directed to the Commission's attention that the Commission did not specifically make a determination as to that portion of its proposal relating to "Teacher Supervision and Evaluation", namely, whether the Municipal Employer had the duty to bargain on whether a teacher had the right to have a representative present on the review of the contents of said teacher's personnel file, and whether obsolete matters therein should be destroyed, and in that regard the Association having moved that said latter proposals be found to primarily affect wages, hours and conditions of employment of teachers; and the Commission having reviewed said motion, the brief

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filed in support thereof, its entire Declaratory Ruling and Memorandum accompanying same, and being satisfied that its original determinations with respect to the proposals relating to "assistance to a teacher having professional difficulties or any techniques relating to such assistance" and "class size" proposals are correct; and further being satisfied that paragraph 8. of the Findings of Fact should be amended to reflect the proposals of the Association to the effect that a teacher has the right to have a representative present on the review of the contents of said teacher's personnel file, and that obsolete matters therein should be destroyed, primarily relate to wages, hours and working conditions affecting teachers in the employ of the Municipal Employer;

NOW, THEREFORE, it is

ORDERED

1. That paragraph 8. B. of the Findings of Fact issued herein be amended to read as follows:

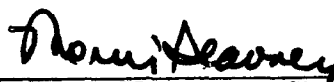
- (1) "Review of personal files and copies of contents therein, and entitlement to representation at such review."
- (2) "Identification of obsolete matters in teacher files, and if obsolete, or otherwise inappropriate to retain, same shall be destroyed."

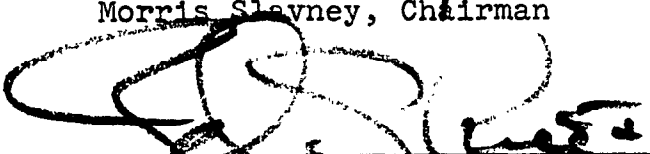
2. That all the remaining Findings of Fact, as well as the Conclusions of Law and Declaratory Ruling made and issued by the Wisconsin Employment Relations Commission on September 11, 1974, in the above entitled matter shall stand as issued in all respects.

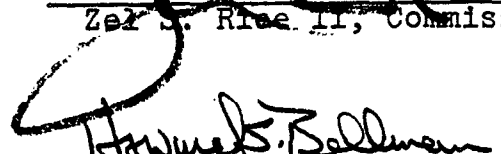
Given under our hands and seal at the
City of Madison, Wisconsin, this 17th
day of October, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING
ORDER REGARDING MOTION FOR RECONSIDERATION

In its brief filed in support of its motion the Association calls to the Commission's attention the fact that it did not make a finding specifically pertaining to the Association's proposal relating to entitlement to representation in the review of a teacher's personnel file, and whether obsolete matters therein should be destroyed. To clarify the Commission's findings with regard to said proposals, we have amended paragraph 8. B. (1) and (2) of the Findings of Fact to reflect that the subject matter of such proposals primarily relates to wages, hours and working conditions of employees in the employ of the School District. It is to be understood that since said proposals primarily relate to wages, hours and conditions of employment, such proposals fall within the coverage of paragraph 3. of the Conclusions of Law, and, further, fall within paragraph 3. of the Declaratory Ruling. Our rationale in this regard is that entitled "Teacher Files and Records" in the Memorandum attached to the original Ruling.

Further, in its brief, the Association argues that the Commission's finding that the Association's proposal with regard to "assistance to teachers having professional difficulties or any techniques relating to such assistance" relates to management and supervision and does not significantly involve wages, hours and working conditions, is unsupported by the evidence. The Commission fully reviewed the evidence with regard to teacher evaluation and with regard to teachers having professional difficulties. In our Memorandum supporting our conclusion that the proposal was not a mandatory subject of bargaining, the Commission stated that "techniques to be employed in dealing with teachers found to be suffering professional difficulties, reflect efforts to determine management techniques rather than conditions of employment." The proposal of the Association regarding such "assistance" would, in effect, pertain to the District's responsibility to improve the skills of the teacher. We deem that such a responsibility is not subject to mandatory bargaining, and, therefore, we see no reason to change our determination with respect to such proposal.

In support of its argument that the Commission erred in determining that the "class size" proposal was not a mandatory subject of bargaining, the Association argues that the evidence supports a conclusion that class size affects the work load of teachers. The Commission does not quarrel with that argument. If the work load of the teacher is increased by an increase in the class size, under our Declaratory Ruling, the Association has the right to bargain on the impact of such a determination, for the reason that the increase in the class size does affect the work load of the teacher. However, we stand by our original finding that the determination of the class size is a basic educational policy and therefore that no mandatory duty is imposed on the District to bargain on the size of the class.

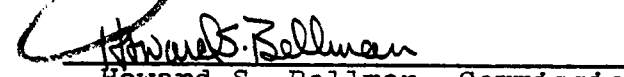
Dated at Madison, Wisconsin, this 17th day of October, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Howard S. Bellman, Commissioner