

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

CITY OF BELOIT, a Municipal Corporation,
by the BELOIT CITY SCHOOL BOARD, its
Agent

Requesting a Declaratory Ruling
Pursuant to Section 111.70(4)(b),
Wisconsin Statutes, Involving a
Dispute Between Said Petitioner and

BELOIT EDUCATION ASSOCIATION

Case V

No. 16732 DR(M)-43

Decision No. 11831

ORDER DENYING MOTION AND SETTING
HEARING ON DECLARATORY RULING

The City of Beloit, by the Beloit City School Board, having, on April 25, 1973, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to issue a Declaratory Ruling pursuant to Section 111.70(4)(b), Wisconsin Statutes, with respect to a dispute arising as to the duty of said Municipal Employer to bargain with the Beloit Education Association with respect to the following enumerated subjects:

- (1) the manner in which supervision and evaluation of teachers will be conducted,
- (2) the structure and maintenance and availability to teachers of school district files and records,
- (3) whether or not "just cause" shall be the standard applied in limitation of the Board's actions with respect to renewal of individual teacher contracts,
- (4) the procedure and order of preference to be utilized in event of teacher layoffs,
- (5) the treatment and disposition of problem students,
- (6) class size,
- (7) type and extent of in-service training to be conducted,
- (8) the type and extent of reading program to be utilized,
- (9) the establishment and structure of summer programs,
- (10) the school calendar,

and in said petition, the Petitioner having taken the position that the parties are not under a duty to bargain on any of the subjects set forth above, on the basis that Section 111.70(1)(d), Wisconsin Statutes,

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establishes two propositions:

- (1) policy functions assigned by the legislature to the governing board of a school district may not be delegated by that board, by agreement or otherwise, and hence cannot be subjects of required bargaining; and
- (2) decisions relating to management of a school district are the responsibility of the governing board, and the board is not required to bargain concerning those decisions - once a decision is made, the effects upon teacher wages, hours and working conditions are required bargaining subjects, but not the decision itself.

Prior to any action by the Commission the Beloit Education Association having on May 2, 1973, filed motions with the Commission (1) requesting the Commission to dismiss the petition because of the failure of the Petitioner to comply with the rules of the Commission pertaining to petitions for declaratory rulings, (2) that the Petitioner be required to amend its petition to conform with the rules and (3) that the time for filing a response to the petition be extended from the receipt of a new petition or amended petition as ordered by the Commission; and the Commission, having reviewed the petition for Declaratory Ruling, the statement in support thereof, and the motions filed by the Beloit Education Association, being fully advised in the premises, and being satisfied that the petition for Declaratory Ruling, in all respects, is in substantial compliance with the rules of the Commission, and that the motions filed by the Beloit Education Association be denied and that hearing be set in the matter;

NOW, THEREFORE, it is

ORDERED

That the motions filed by the Beloit Education Association to dismiss the petition, or to require the City of Beloit, by the Beloit City School Board to amend its petition for Declaratory Ruling be, and the same hereby is, denied; and that therefore, the Beloit Education Association shall file its response to the petition within seven (7) days of the receipt of a copy of this Order.


IT IS FURTHER ORDERED that hearing on the petition for Declaratory Ruling filed herein will be held on Monday, June 4, 1973, at 10:00 a.m., in Room 301-A, Milwaukee City Hall, Milwaukee, Wisconsin, at which time and place the parties have the right to appear in person or otherwise and give testimony.

Given under our hands and seal at the
City of Madison, Wisconsin, this 8th
day of May, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING
ORDER DENYING MOTION AND SETTING
HEARING ON DECLARATORY RULING

In paragraphs (a) and (b) in its petition for Declaratory Ruling, the Petitioner identified the Petitioner, and further identified the Beloit Education Association and its principle representative. Paragraph (c) of the petition described the bargaining unit involved and the number of certified teachers in said bargaining unit. Paragraph (d) of the petition set forth the subjects over which the Petitioner and the Association are in dispute as to the Petitioner's duty to bargain thereon. (Such subjects are listed in the preface to the Commission's Order herein.) Furthermore, in its petition, as paragraph (e), the Petitioner set forth its position with regard to its contention that it was not under a duty to bargain on such matters.

Prior to any action on the petition, the Beloit Education Association, hereinafter referred to as the Association, filed a document with the Commission which contained three motions which are indicated in the preface to the Commission's Order. Specifically, the Association contended that the petition was incomplete and did not conform to the requirements of the Commission's rules as set forth in ERB 18.02 in the following respects:

- "1. That the petition be dismissed for failure to comply with the rules of the Commission with respect to petitions for declaratory rulings.
2. (As an alternative to 1. above) That the petitioner be required to amend its petition to conform to the Commission's rules in the respects discussed above.
3. That the time for filing a response to the petition be extended to seven days from receipt of a new petition or amended petition which does not contain the deficiencies set forth above and complies with the Commission rules."

The Commission deems that there is more than substantial compliance with the Commission's rules in that the petition for Declaratory Ruling sets forth the subject matters involved as well as the position of the Petitioner thereon. Compliance with the rule does not envision that the Petitioner set forth in detail every conceivable argument and authority in support of its particular position, and likewise ERB 18.03 relating to statements in the response to the petition for Declaratory Ruling also need not set forth every conceivable argument in support of its response to the petition. Furthermore, the details of the subject matters involved must be known to the Association, since the Association proposed such subjects for bargaining to the Petitioner. Therefore, we have denied the motions filed by the Association and have set the matter for hearing.

The Commission deems that the matters involved in this Declaratory Ruling proceeding are of state-wide concern, and, therefore, it will today issue a general Notice of Hearing herein and permit any

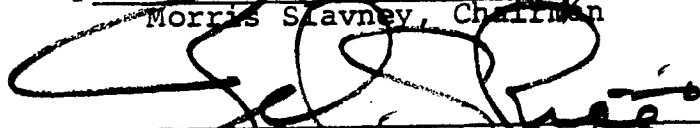
party having an interest in the subject matter to intervene pursuant to the conditions set forth in said Notice.

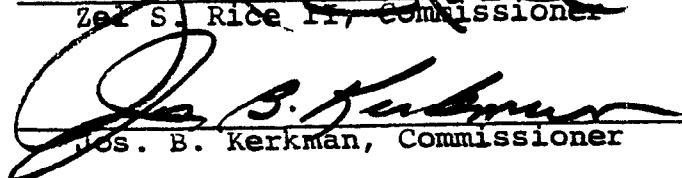
Dated at Madison, Wisconsin, this 8th day of May, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner