

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

-----  
In the Matter of the Petition of  
DISTRICT COUNCIL 48, AFSCME, AFL-CIO  
For Clarification of Bargaining Unit  
of Certain Employees of  
MILWAUKEE BOARD OF SCHOOL DIRECTORS  
-----

Case LIX  
No. 18432 ME-1118  
Decision No. 13134-B

Appearances:

Goldberg, Previant and Uelmen, Attorneys at Law, by Mr. John  
Williamson, Jr., Esq., on behalf of District Council 48,  
AFSCME, AFL-CIO

Mr. John B. Brennan, Esq., City Attorney, by Mr. Nicholas M.  
Sigel, Esq., Assistant City Attorney, on behalf of Milwaukee  
Board of School Directors.

ORDER DENYING MOTION FOR RECONSIDERATION

The Wisconsin Employment Relations Commission, on January 27, 1976, having issued an Order Clarifying Bargaining Unit, wherein it found, inter alia, that certain part-time employees should not be included in the collective bargaining unit involved; and District Council 48, AFSCME, AFL-CIO on February 24, 1976, having filed a Motion for Reconsideration of said Order; and said Labor Organization thereafter having filed a brief in support of said Motion; and Milwaukee Board of School Directors, having, on March 1, 1976, filed a response wherein it opposed the Motion for Reconsideration; and the Commission having considered the matter; and being satisfied that said Motion be denied;

NOW, THEREFORE, it is

ORDERED

That the Motion for Reconsideration be, and the same hereby is, denied.

Given under our hands and seal at the  
City of Madison, Wisconsin this 22nd  
day of April, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By



Morris Slavney, Chairman



Howard S. Bellman, Commissioner



Herman Torosian, Commissioner

No. 13134-B

MEMORANDUM ACCOMPANYING ORDER  
DENYING MOTION FOR RECONSIDERATION

Council 48 argues that the parties did not voluntarily agree to the present composition of the unit in a prior representation case, 1/ and that, therefore, the Commission's contrary finding in the instant case is inaccurate. In support of its position, Council 48 cites several exchanges in the prior case for the proposition that it never there agreed that the unit should be limited to those employees who work 10 hours or more per week and who also work 26 or more weeks in the year.

In this connection, it is true that Council 48's attorney in the prior case did address himself to questions relating to the eligibility of voters to vote in the representation matter therein. However, the transcript in that case also reveals that Council 48's attorney also addressed himself to the composition of the unit. Thus, for example, Council 48's attorney there stated:

"we're saying those who work - any job that requires 10 or more hours a week should be in the unit. Those jobs that do not, based on the fact that a very large number of people and the strict eligibility requirements, we will agree would be outside the unit." (Emphasis added) 2/

In light of this statement, there is no question but that Council 48 was then stipulating to at least a partial composition of the "unit." Immediately thereafter, the parties discussed the composition of the unit, at which point Council 48 agreed that questions of eligibility could be spelled out in the Commission's memorandum on the issue, and that the "unit description" did not have to refer to such questions. 3/

Following the close of that hearing, the Commission subsequently issued a Direction of Election and noted in its Accompanying Memorandum that "During the course of the hearing, a stipulation was reached with regard to the bargaining unit involved . . ." Council 48 did not deny that such a stipulation had been agreed to by the parties. Later, following the election, the Commission issued a Certification of Representatives wherein it expressly noted that the "bargaining unit" consisted of certain employees. Again, Council 48 at that time did not question the formation of such a "unit."

Accordingly, in light of the above noted factors, which establish that the composition of the instant unit was considered in the prior representation proceedings, and for the reasons noted previously in our Order Clarifying Bargaining Unit, the Commission concludes that Council 48's Motion for Reconsideration raises no issues which warrant reconsideration of the Commission's Order Clarifying Bargaining Unit, and that, therefore, said Motion must be denied.

Dated at Madison, Wisconsin this 22nd day of April, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner

Herman Torosiah  
Herman Torosiah, Commissioner

1/ Milwaukee Board of School Directors, Case XXXIX, Decision No. 12067  
2/ Ibid. TR. 32.  
3/ Ibid. TR. 33.