

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

ADAMS-FRIENDSHIP FEDERATION OF TEACHERS,
LOCAL 3337, WFT, AFT, AFL-CIO

Involving Certain Employees in the
Employ of

ADAMS-FRIENDSHIP JOINT SCHOOL
DISTRICT NO. 1

Case X
No. 20182 ME-1294
Decision No. 14525

Appearances:

Mr. William Kalin, Executive Director, WFT, appearing on behalf
of the Petitioner.

Mr. James Yoder, Executive Director, South Central United Educators,
Wisconsin Education Association, appearing on behalf of the
Intervenor.

Mr. Gordon L. Sardeson, Superintendent, appearing on behalf of
the Municipal Employer.

ORDER DISMISSING PETITION FOR ELECTION

Adams-Friendship Federation of Teachers, Local 3337, WFT, AFT, AFL-CIO, hereinafter referred to as the Petitioner, having on January 27, 1976, filed a petition with the Wisconsin Employment Relations Commission requesting the conduct of an election, pursuant to Section 111.70(4)(d) of the Municipal Employment Relations Act, among certain employees of Adams-Friendship Joint School District No. 1 to determine whether said employees desire to be represented by said Petitioner for the purposes of collective bargaining, and a hearing on such petition having been held at Friendship, Wisconsin, on March 9, 1976, Kay Hutchison, Hearing Officer, being present; and during the course of the hearing, 1/ Adams-Friendship Education Association, having been permitted to intervene in the matter on the basis that it is the recognized collective bargaining representative of said employees; and the Commission having considered the evidence and being fully advised in the premises, and being satisfied that the instant petition is not timely filed;

NOW, THEREFORE, it is

ORDERED

That the petition filed in the instant matter be, and the same hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin this 12th
day of April, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian
Herman Torosian, Commissioner

1/ The parties waived, in writing, the preparation of a transcript of the proceeding and the provisions of Section 227.12 of the Wisconsin Statutes.

MEMORANDUM ACCOMPANYING
DIRECTION OF ELECTION

The Adams-Friendship Area Education Association, hereinafter the Intervenor, is presently the recognized collective bargaining representative of the employees petitioned for herein; namely, "all staff members including classroom teachers, special teachers, guidance counselors, librarians, department heads, teaching principals, part-time teachers and teachers on leave, excluding all full-time principals, elementary and secondary school coordinator, business manager, and superintendent." The Intervenor and Adams-Friendship Joint School District No. 1, hereinafter the Municipal Employer, are parties to a collective bargaining agreement covering the wages, hours and conditions of employment of said employees for the period from September 1, 1975 to August 31, 1976.

During the course of the hearing conducted in the instant proceeding, the Intervenor raised an issue with regard to the timeliness of the petition filed with the Commission by the Petitioner. The Municipal Employer took no position with regard to the timeliness issue. The Intervenor, contrary to the Petitioner, argues that the petition herein was not timely filed, and thereby, should be dismissed.

Negotiations for the existing collective bargaining agreement between the Intervenor and the Municipal Employer were concluded in mid-November, 1975. "Article 2 - Negotiations Procedural Rules," in said existing agreement states in relevant part that:

"The Adams-Friendship Area Education Association will contact the Superintendent of Schools prior to the second Monday in January to arrange a date for the first meeting . . ."

On December 11, 1975, the Intervenor requested that negotiations between itself and the Municipal Employer be opened for the 1976-1977 agreement. The Superintendent, on behalf of the Municipal Employer, responded in writing to said request on January 13, 1976, indicating that either January 26 or January 29, 1976 would be acceptable dates upon which to commence negotiations. A negotiations meeting was tentatively set for January 29, 1976, but subsequently canceled. On January 27, 1976, the Petitioner filed the instant petition. At the time of the hearing, one negotiation session had been held between the Intervenor and the Municipal Employer on February 2, 1976.

The Intervenor argues that the petition would have been timely had it been filed within the thirty day period preceding the contractual reopening date; namely, the second Monday in January which was January 12, 1976. The Petitioner contends that the petition is timely in accordance with the "modified Wauwatosa policy" adopted and applied by the Commission. The Petitioner avers that the date of filing fell within the sixty day period preceding the commencement of negotiations. Accordingly, the Petitioner asserts that the petition is timely.

The Commission in City of Milwaukee (8622) 7/68, established a modification of its previous policy 2/ with regard to the timely filing of election petitions. Therein, the Commission held that:

2/ Wauwatosa Board of Education (8300-A) 2/68.

"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 entertained by the Commission if they are filed in good faith within sixty days prior to such six-month period."

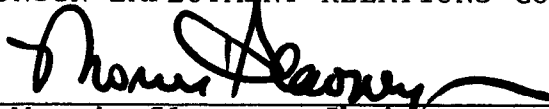
The Commission in applying the above policy has considered the "date reflected in said agreement.....for the commencement of negotiations" as the date to determine whether the petition has been timely filed, and not the date on which negotiations actually commence. 3/ However, in the instant proceeding, the contractual reopening date, namely January 12, 1976, extends beyond the six-month period preceding the budgetary deadline. 4/ Accordingly, the appropriate date from which to determine the timely 60 day period is the budgetary deadline. Under the Milwaukee policy, the Petitioner could have timely filed its petition within sixty days prior to January 26, 1976. The instant petition was filed on January 27, 1976, and thereby exceeds the sixty day period in which a petition could have been timely filed.

Although the filing of the petition herein was late by only one day, we are satisfied that the policy stated in the City of Milwaukee is without exception. The Commission has, in situations wherein the filing of an election petition has marginally preceded the timely 60-day period, directed an election on the basis that should the petition be dismissed, the Petitioner could immediately refile the petition in a timely manner. Such is not the case herein. The date on which the petition was filed exceeded the timely period, and thereby the Commission has dismissed the instant petition.

Dated at Madison, Wisconsin this 12th day of April, 1976.

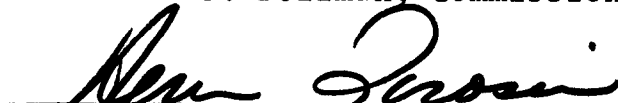
WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman



Howard S. Bellman, Commissioner


Herman Torosian, Commissioner

3/ Black Earth Jt. School Dist. No. 1 (8854) 1/69.

4/ The budgetary deadline date is statutorily established as July 26, 1976, Secs. 65.90(4), 120.08(1)(a) and 120.10, Wisconsin Statutes.