STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

DRUMMOND EDUCATION ASSOCIATION,	:	
Complainant,	:	Case VI No. 22183 MP-794
vs.	:	Decision No. 15909-A
DRUMMOND INTEGRATED SCHOOL DISTRICT,	:	
Respondent.	:	

Appearances:
Mr. Barry Delaney, Executive Director, Chequamegon United Teachers, and Mr. Robert West, Executive Director, Northwest United Educators, appearing on behalf of the Complainant.
Gallagher & Naleid, Attorneys at Law, by Mr. Thomas J. Gallagher, appearing on behalf of the Respondent.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

The above-named Complainant, having on October 23, 1977, filed a complaint with the Wisconsin Employment Relations Commission alleging that the above-named Respondent had committed certain prohibited practices within the meaning of Section 111.70(3)(a)1, 3 and 4 of the Municipal Employment Relations Act (MERA); and the Commission having appointed Peter G. Davis, a member of its staff, to act as Examiner and to make and issue Findings of Fact, Conclusions of Law and Order as provided in Section 111.07(5) of the Wisconsin Statutes; and a hearing on said complaint having been held before the Examiner in Ashland, Wisconsin on December 7, 1977; and the parties having submitted briefs until February 1, 1978; and the Examiner having considered the evidence and arguments of counsel, makes and files the following Findings of Fact, Conclusions of Law and Order.

FINDINGS OF FACT

1. That the Drummond Education Association, herein Complainant, is a labor organization functioning as the exclusive collective bargaining representative of "all regular full-time and regular part-time certificated teaching personnel employed by the Board including classroom teachers, librarians and guidance counselors but excluding the following

1. Principals and supervisors.

2. Non-instructional personnel such as nurses and social workers.

3. Interns, practice teachers, teacher aides and office and clerical employes.

4. All other employes and administrators."

who are employed by the Drummond Integrated School District.

2. That the Drummond Integrated School District, herein Respondent, is a municipal employer; that Gerald Klebenow is president of Respondent's Board of Education and functions as Respondent's agent; and that A. J. Klein is a member of Respondent's Board of Education and functions as Respondent's agent.

3. That in the spring of 1972, the Respondent started including the following provision in all individual teaching contracts:

> " (1) LIQUIDATED DAMAGES CLAUSE:
>
> In the event the teacher breaches this contract by termination of services during the term hereof, the sum of $200.00 (July 1, 197_) is determined to be the reasonable liquidated damages which the parties, looking forward, reasonably anticipate will follow from such a breach and the Board of Education may, at its option, demand and recover from the teacher such amount as liquidated damages; provided, however, that this express intent to liquidate the uncertain damages and harm to the school district to be expected from such a breach is not the exclusive remedy or right of the Board of Education but is, rather, an alternative right and remedy and shall not, unless the Board elects to rely on the same, preclude the Board of Education from seeking and recovering the actual damages resulting from such a breach by the teacher."

that the practice of including the liquidated damages clause continued from the 1972 - 1973 school year through the 1977 - 1978 school year; that in December, 1973, a teacher employed by Respondent resigned because of ill health and that the Respondent did not pursue any liquidated damage claim against said teacher; that the issue of a liquidated damages clause has never been discussed during bargaining between Complainant and Respondent; and therefore, that the collective bargaining agreements entered into by Complainant and Respondent from 1972 - 1973 through 1976 - 1977 have not contained any provisions which specifically deal with the subject of liquidated damages.

4. That on or about February 21, 1977, Respondent offered Thomas J. Martin an individual teaching contract for the 1977 - 1978 school year which contained the liquidated damages clause and a statement indicating that the terms of said contract were subject to amendment by a subsequent bargaining agreement; that on or about April 15, 1977, Martin signed the individual teaching contract containing said clause; that on July 18, 1977, Martin tendered his resignation to Respondent so that he could accept a different teaching position; that on July 19, 1977, Respondent accepted Martin's resignation provided that he pay $200.00 in liquidated damages as indicated in his individual teaching contract; that Martin was a member of Complainant and until his resignation served on Complainant's bargaining team for the 1977 - 1978 collective bargaining agreement; that in prior years, Martin had served on Complainant's negotiating committee which gave input to Complainant's bargaining team; that Martin refused to pay the $200.00 in damages; and that Respondent currently has an action against Martin pending in the Bayfield County Court, Small Claims Branch, which seeks to enforce the liquidated damages clause in Martin's individual teaching contract.

5. That on or about February 25, 1977, Ms. Ruth Laube, Complainant's president, telephoned A. J. Klein, a member of Respondent's Board of Education, and indicated her displeasure with Respondent's decision to terminate administrator Eglseder and her hope that Klein would reconsider his vote; that Klein indicated that he had no intention of changing his mind;

that Laube and Klein then engaged in a heated discussion about the quality of Respondent's school system; that during said discussion Laube questioned the validity of terminating an administrator without cause and inquired whether anyone in the school system could be discharged without just cause; that Klein responded by stating "You're right, and you could be next."; that Laube asserted that the preceding school year had been very productive and that Klein responded by disputing Laube's assertion and indicated the Respondent's current problems with the school system were substantial and were linked to the presence of Complainant.

6. That on March 21, 1977, Respondent's School Board held a meeting to discuss administrator Eglseder's termination; that during said meeting, which was attended by at least one member of Complainant, Gerald Klebenow made a statement which is attached to the instant decision as Appendix "A".

7. That on September 28, 1977, during bargaining for the 1977 - 1978 contract between Complainant and Respondent, the Respondent made an offer regarding the issue of extra-curricular pay which consisted of a payment schedule with the amount of compensation increasing in five yearly steps; that the chief negotiator for Complainant's bargaining team was Thomas Hagen, who served as basketball and baseball coach in addition to his teaching responsibilities; that a portion of Respondent's offer indicated that the basketball coach's salary would begin at $850.00 and top out at $1,050.00; and that on September 28, 1977 no agreement was reached on the extra-curricular pay issue; that during a November 8, 1977 bargaining session, Respondent made a new extra-curricular pay offer which consisted of ten yearly step increases with the basketball coach's salary beginning at a base of $800.00 and topping out at $1,300.00; that Hagen was the only teacher serving in an extra-curricular position who was adversely affected by the Respondent's new proposal; that no agreement regarding extra-curricular pay was reached on November 8, 1977; and that shortly thereafter Hagen tendered his resignation to Respondent because Respondent's November 8, 1977 proposal offered him less of an increase than the September 28, 1977 proposal; and that as of the date of the hearing in the instant matter, Complainant and Respondent had not agreed upon the terms of their 1977 - 1978 collective bargaining agreement.

On the basis of the above and foregoing Findings of Fact, the Examiner makes the following

CONCLUSIONS OF LAW

1. That Respondent, through Gerald Klebenow's March 21, 1977 speech, did not interfere with, restrain or coerce its employes in the exercise of their rights under Section 111.70(2) of MERA and therefore did not commit a prohibited practice within the meaning of Section 111.70(3)(a)1 or 3 of MERA.

2. That Respondent did not refuse to bargain collectively with Complainant regarding a liquidated damages clause nor did it bargain with individual employes regarding said subject and therefore, that Respondent did not commit a prohibited practice within the meaning of Section 111.70 (3)(a)4 of MERA.

3. That Respondent, by seeking to enforce a liquidated damages claim against Thomas Martin, did not commit a prohibited practice within the meaning of Section 111.70(3)(a)1 or 3 of MERA.

4. That Respondent, by altering its extra-curricular pay proposal on November 8, 1977, did not commit a prohibited practice within the meaning of Section 111.70(3)(a)1 or 3 of MERA.

5. That Respondent, through A. J. Klein's February 25, 1977 conversation with Ruth Laube, did interfere with, restrain and coerce employes in the exercise of their rights under Section 111.70(2) of MERA and therefore, Respondent has thereby committed a prohibited practice within the meaning of Section 111.70(3)(a)1 of MERA.

On the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Examiner makes the following

ORDER

IT IS ORDERED that Respondent, Drummond Joint School District, its officers and agents shall immediately

1. Cease and desist from threatening employes or in any other manner interfering with, restraining or coercing employes in the exercise of their right to engage in concerted activity on behalf of the Complainant or any other labor organization.

IT IS FURTHER ORDERED that all remaining portions of the complaint shall be, and hereby are, dismissed.

Dated at Madison, Wisconsin this 23rd day of March, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Peter G. Davis, Examiner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

In its complaint filed October 23, 1977 and amended November 29, 1977 and December 7, 1977, the Complainant alleged that Respondent had committed prohibited practices within the meaning of Section 111.70(3)(a)1 and 3 of MERA by (1) threatening complainant's president with discharge because of her protected concerted activity; (2) altering its bargaining proposals to coerce Complainant's chief negotiator; (3) making threatening statements during a public school board meeting and; (4) seeking to enforce a liquidated damages clause against an employe because of said employe's protected concerted activity. Complainant further alleged that Respondent committed prohibited practices within the meaning of Section 111.70(3)(a)4 by unilaterally establishing a liquidated damages clause in individual teaching contracts and individually bargaining with employes regarding said clause. Respondent denied Complainant's allegations.

KLEBENOW'S MARCH 21, 1977 SPEECH

Complainant alleges that Klebenow's speech during the March 21, 1977 school board meeting contained statements which were intended to discourage teachers from becoming involved with Complainant or Complainant's leadership and thus that said speech constituted interference under Section 111.70(3)(a)1 of MERA. Respondent counters by contending that Klebenow's speech was a legitimate exercise of his right of free speech.

To sustain its burden of proof with respect to the alleged interference Complainant must demonstrate by a clear and satisfactory preponderance of the evidence that Klebenow's statements contained a threat of reprisal or a promise of benefit which would tend to interfere with employe's protected right to support Complainant. 1/ Absent such threats or promises of benefit, statements which indicate that a labor organization is acting irresponsibly, that it does not represent the views of the employe, or that its bargaining positions may not benefit the membership do not constitute prohibited practices. 2/ As the Commission noted in Janesville Joint School District:

> "While we do not encourage such remarks, if we were to eliminate remarks critical of employe and of employer representatives from the bargaining process as prohibited practices, the process might collapse, perhaps from shock alone."

While Klebenow's statement does contain remarks which are highly critical of Complainant's leadership and bargaining strategy, it is the undersigned's conclusion that the speech did not contain express or implied threats or promises of benefit and thus that it did not constitute interference. In reaching this conclusion, both the remarks themselves and the circumstances under which they were made have been considered.

1/ Lisbon Pewaukee Joint School District No. 2, (14691-A) 6/76.

2/ Janesville Joint School District, (8791-A) 3/69; Ashwaubenon School District No. 1, (14774-A) 10/77.

REFUSAL TO BARGAIN

Section 111.70(3)(a)4 of MERA establishes the Municpal Employer's obligation to bargain in good faith with the collective bargaining representative of its employes with respect to said employes' wages, hours, and conditions of employment. This duty to bargain continues during the term of a collective bargaining agreement and requires that the Municipal Employer bargain with its employes' bargaining representative before unilaterally changing employes' wages, hours, or conditions of employment. 3/ However, the Municipal Employer's duty to bargain and the Union's right to same may be waived by the terms of the parties' bargaining agreement and/or pertinent bargaining history. 4/

In the instant situation, the record reveals that in the spring of 1972, the Employer began to place a liquidated damages clause in all individual teacher contracts and that this practice has continued through the present. Such a clause has an undeniable impact upon employes' "wages, hours and working conditions" and thus clearly constitutes a mandatory subject of bargaining between Complainant and Respondent. Thus, Respondent was obligated to bargain with Complainant regarding such a clause. Inasmuch as the record reveals that Respondent did not bargain with Complainant regarding this change in "working conditions," it must be found that Respondent violated Section 111.70(3)(a)4 unless Complainant waived its right to so bargain. Waiver will not be found unless there is clear and unmistakable evidence indicating same. 5/

Inasmuch as the liquidated damages clause began appearing in the individual teacher contracts in 1972 and has continued to appear through the 1977 - 1978 school year, it is clear that Complainant is aware that the unilateral change occurred. Upon becoming aware of the change, it was incumbent upon Complainant to demand that Respondent bargain about said change. 6/ It is not Repondent's obligation to initiate such a discussion. The record clearly demonstrates that despite a long-standing awareness, Complainant has never demanded that Respondent bargain about the liquidated damages clause. It must therefore be concluded that Complainant, by its failure to demand bargaining, clearly and unmistakably waived its right to bargain about the unilateral establishment of a liquidated damages clause.

Complainant has also alleged that the Respondent violated Section 111.70(3)(a)4 by individually bargaining with employes regarding the placement of the liquidated damages clause in their individual contracts. However, the record does not indicate that Respondent ever discussed said clause with any individual teacher. Rather, it simply placed said clause

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3/ City of Beloit, (11831) 9/74; aff'd in relevant part, nos. 144-272 and 144-406 (Dane Co. Cir. Ct.) 1/31/75; app'd to Wis. Sup. Ct.; aff'd 6/2/76 Oak Creek-Franklin Jt. School Dist. No. 1, (11827) 9/74; aff'd, No. 144-473 (Dane Co. Cir. Ct.) 11/75.

4/ City of Madison, (15095) 12/76; Middleton Jt. School Dist. No. 3, (14680-A, B) 6/76; City of Green Bay, (12411-A, B) 4/76; Milwaukee County, (12734-A, B) 2/75.

5/ City of Milwaukee, (13495) 4/75; City of Menomonie, (12674-A, B) 10/74; Fennimore Jt. School Dist., (11865-A, B) 7/74; Madison Jt. School Dist., (12610) 4/74; City of Brookfield, (11406-A, B) aff'd Waukesha County Cir. Ct. 6/74.

6/ City of Jefferson, (15482) 9/77.

into the teaching contracts. Such an action does not constitute individual bargaining and thus no prohibited practice was committed by Respondent. 7/

ALLEGED DISCRIMINATION AGAINST THOMAS MARTIN

Complainant asserts that Respondent is seeking to enforce the liquidated damages clause against Martin because of his former status as a member of Complainant's bargaining team and that said action violates Section 111.70(3)(a)1 and 3 of MERA.

Initially, it must be noted that the Complainant has the burden of proving the allegedly discriminatory nature of Respondent's action against Martin. To meet this burden with respect to the alleged violation of Section 111.70(3)(a)3 of MERA, Complainant must prove by a clear and satisfactory preponderance of the evidence that Complainant was engaged in concerted activity which is protected by MERA; that Respondent was aware of Complainant's protected concerted activity; that Respondent was hostile toward said activity; and that Respondent's action was motivated, at least in part, by its opposition to said activity. 8/

With respect to the question of whether Martin was engaged in statutorily protected concerted activity, the record reveals that he was a member of Complainant's 1977 - 1978 bargaining team until his resignation. Such activity clearly falls within the scope of employe rights established and protected by MERA. Given his bargaining team status, there can be no doubt that Respondent was aware of his protected concerted activity. Turning to the question of whether Respondent was hostile toward Martin's protected concerted activity, the record reveals that on March 23, 1977, Gerald Klebenow, president of Respondent's school board, made a speech which clearly revealed Respondent's hostility toward Complainant and its leadership. It can reasonably be concluded that this hostility extended to employes such as Martin who were actively supporting and promoting Complainant's interests at the bargaining table.

Having therefore concluded that Martin was engaged in protected concerted activity and that Respondent was aware of said activity and hostile thereto, the question becomes one of whether the record demonstrates, by a clear and satisfactory preponderance of the evidence, that Respondent's decision to pursue a liquidated damages claim against Martin was motivated, at least in part, by Respondent's hostility toward Complainant's protected activity. Complainant attempts to support its allegation of discrimination by citing Martin's bargaining team status and the fact that Respondent did not pursue a claim against an employe who resigned in 1972. While these facts do create an inference of discriminatory motivation, it is concluded that the strength of said inference falls short of meeting Complainant's burden of proof. Initially, it must be noted that the resignation situation

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7/ It should be noted that Section 111.70(3)(a)4 specifically states that it is not a refusal to bargain to issue or offer individual contracts while bargaining is in progress as long as said contracts, as they did in the instant matter, state that they are subject to amendment by a subsequent collective bargaining agreement.

8/ St. Joseph's Hospital, (8787-A, B) 10/69; Earl Wetenkamp d/b/a Wetenkamp Transfer and Storage, (9781-A, B, C) 3/71, 4/71, 7/71; and A. C. Trucking Co., Inc., (11731-A) 11/73.

in 1972 differed significantly from Martin's in that said resignation was triggered by illness and occurred well into the school year. Given the differing situation, Respondent could reasonably conclude that different action vis-a-vis the liquidated damages question was warranted. But more importantly, the record reveals that Martin signed an individual contract containing a liquidated damages clause which arguably allowed Respondent to pursue its claim for damages. In light of the foregoing, it simply can not be concluded that Complainant has met the burden of proof as to Respondent's allegedly discriminatory motivation. Complainant's failure in this regard also requires the dismissal of its claim that Respondent's action violated Section 111.70(3)(a)1.

ALLEGED DISCRIMINATION AGAINST THOMAS HAGEN

Complainant alleges that on November 8, 1977, the Respondent altered its extra-curricular pay proposal in a manner which attempted to discourage Hagen, Complainant's bargaining team chairman, from engaging in activity on Complainant's behalf and that Respondent thereby committed prohibited practices within the meaning of Section 111.70(3)(a)1 and 3 of MERA. Respondent denies the charge and contends that its November 8, 1977 proposal was simply part of an attempt to reach a settlement of the 1977 - 1978 contract.

As indicated earlier, Complainant has the burden of proving, by a clear and satisfactory preponderance of the evidence, that Hagen was engaged in concerted activity which is protected under MERA; that Respondent was aware of said activity and hostile thereto; and that Respondent's November 8, 1977 proposal was motivated, at least in part, by Respondent's hostility toward Hagen's protected concerted activity. Hagen's activity as chairman of Complainant's bargaining team is clearly protected by MERA and there can be no doubt that Respondent was aware of his activity. Turning to the question of Respondent's hostility toward said activity, Klebenow's March 21, 1977 speech indicates a hostility toward Complainant and its leadership. As with Martin, the Examiner finds it reasonable to conclude that this hostility specifically extended to employes such as Hagen who were actively supporting Complainant's interest. The Examiner now turns to the question of whether the November 8, 1977 proposal was motivated, at least in part, by Respondent's hostility toward Hagen's protected concerted activity.

The record demonstrates that Hagen was the only bargaining unit member adversely affected when Respondent shifted from its September 28, 1977 five step extra-curricular proposal to its ten step proposal of November 8, 1977. Complainant contends that the November 8, 1977 proposal was a calculated effort by Respondent to punish Complainant's leadership and to discourage other employes from supporting Complainant or pursuing leadership role with Complainant. While such an inference could conceivably be drawn, the Examiner concludes that when Respondent's action is received within the context of collective bargaining process, the strength of said inference falls short of meeting Complainant's burden of proof. Initially, it must be pointed out that Respondent's September 28, 1977 proposal on extra-curricular pay was rejected by Complainant. Following said rejection, it is certainly reasonable for Respondent to change its proposal in an effort to reach an agreement. Indeed, it could be argued that the November 8, 1977 proposal could benefit even Hagen in the long run because the cap on the basketball coach's salary was higher. It is also noteworthy that Respondent's November 8, 1977 change in position was merely a proposal; it was not a final offer. Upon a rejection of the November 8 offer, it could reasonably be presumed that Respondent would come up with yet another proposal which might benefit Hagen and be detrimental to others. In light of the foregoing it is concluded that Complainant has not met its burden of proof with respect to Respondent's discriminatory motivation. Given this finding, Complainant's allegations that Respondent violated Section 111.70(3)(a)1 and 3 of MERA must be dismissed.

ALLEGED INTERFERENCE AGAINST RUTH LAUBE

The record contains unrebutted testimony that on February 25, 1977, Laube, president of Complainant, initiated what developed into an angry discussion with A. J. Klein, a member of Respondent's Board of Education, regarding the discharge of administrator Eglseder and the quality of the school system. The record further indicates that Klein, when asked by Laube whether it was the Respondent's belief that anyone employed by the school district could be discharged without cause, replied by stating "You're right, and you could be the next." Klein also stated that he felt Complainant was responsible for the current low level of educational service being provided to the students. Complainant asserts that Klein's statement about the possibility of Laube's discharge constituted interference with Laube's rights under MERA to support Complainant.

As indicated earlier, to meet its burden of proof Complainant must demonstrate by a clear and satisfactory preponderance of the evidence that Klein's statements contained a threat or promise of benefit which could tend to interfere with Laube's right under MERA to engage in concerted activity on Complainant's behalf. While Klein's statement occurred during a heated discussion which Laube initiated, the Examiner concludes that said statement, when viewed in light of the concurrent discussion about Complainant's negative impact upon the school system, did constitute a threat which could tend to interfere with Laube's rights under MERA. Inasmuch as Klein was functioning in his capacity as Respondent's agent when he made the statement, Respondent is found to have thereby committed a prohibited practice within the meaning of Section 111.70(3)(a)1 of MERA.

Complainant also alleged that Klein has made statements to the public which indicate that Laube's activity on Complainant's behalf could jeopordize her job. Such statements, if made, would clearly constitute interference and thus prohibited practices under Section 111.70(3)(a)1. However, Complainant's proof with respect to the existence of the alleged threats consists exclusively of hearsay testimony from Laube, and the undersigned concludes that said testimony is not sufficient to warrant a finding that said threats did in fact occur. Thus Complainant's allegation with respect to said threats must be dismissed.

Dated at Madison, Wisconsin this 23rd day of March, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Peter G. Davis, Examiner

APPENDIX "A"

March 21, 1977 REMARKS OF GERALD KLEBENOW

Good evening, Ladies and Gentlemen:

"This is a regular meeting of the Board of Education of the Drummond School District. On the agenda this evening, we have alloted time for the board and interested citizens to discuss non-renewal of Mr. Eglseder's contract as administrator.

This is an open meeting. You, the public, have the right to attend this meeting, but no individual or group has the right to enter into the discussion only when the board invites you to do so. Each speaker will ask for recognition from the presiding officer, approach the microphone, give your name and address, state your opinions briefly and concisely. Visitors who create disturbances shall be removed from this meeting.

As we have other items on the agenda this evening, I will set a time limit of two hours on this portion of the meeting.

Because it is important that you understand the position of the board and the administrator, I am going to briefly review the functions of the school board and the duties of the administrator.

My source on this information is a manual published by the Wisconsin Association of School Boards, Inc., 'Opportunities Unlimited - A Guide for Wisconsin School Board Members.' This handbook is an indispensable tool for school board members. It provides a concise reference source for individually and collectively fulfilling the responsibilities we have accepted as school board members.

Following this review, I shall then read our list of reasons given for consideration of non-renewal of Mr. Eglseder's contract. When we have concluded with our statements, I will then open the meeting to discussions from the floor.

The board this evening was fully prepared to expound on the reasons given for consideration of non-renewal. However, Mr. Eglseder has threatened legal action against the board for not renewing his contract. Because Mr. Eglseder has taken this action, the board has been advised by our legal counsel to refrain from commenting on a discussion that pertains to our decision making. The following letter will explain the board's position.

> ' . . . At your request I have reviewed the letter from Mr. Eglseder's attorneys of March 16, 1977 and the Board's prior action concerning non-renewal.
>
> It would appear that the Board complied with the procedure in the Wisconsin Statutes concerning non-renewal of an administrator but Mr. Eglseder's attorneys contend that he was entitled to more than what the statutes provide based on alleged constitutional provisions.
>
> I can find no Wisconsin case law on point which would require the Board to do more than it did and the Board would be entitled to stand on the proceedings already had unless ordered to do otherwise by a court of competent jurisdiction. The burden of so convincing the Court would rest with Mr. Eglseder.

The threat of such legal action by Mr. Eglseder's attorneys does lead me to recommend that you change the proposed format for your meeting scheduled for this evening. Since such a meeting can have no legal effect on the proceedings heretofore had, it is my recommendation that the Board refrain from any discussions concerning its decision making or the possiblity of compromise. The public can be given an opportunity to voice its opinions, but I would recommend that the board not involve itself in discussions or arguments concerning its decision. . .'

Remarks adopted from 'Opportunities Unlimited'
A Guide for Wisconsin School Board Members

LEGAL AUTHORITY AND RESPONSIBILITY

Local school board members legally are regarded as state officers. Although they are elected or appointed locally, the duty of school board members is to make the public school organization of the state effective through their actions as a corporate board.

Education needs the support of the people. School board members need to utilize contacts with the public both to gain and provide information. If the board member is to represent the public, community opinions must be heard and carefully considered. Board members must be familiar with board policies and should give straightforward answers to questions about board policies. If no board policy exists on a specific problem, board members should not commit themselves to a position before all aspects of the problem have been considered by the board. Final judgment should be based on the facts and should be reached through a consideration of the best interests of all those served by the schools of the district.

FUNCTIONS OF THE SCHOOL BOARD

School boards have two major functions - policymaking and evaluation. The boards' competence in performing these two functions will in large measure determine its effectiveness.

A policy is a statement of principle adopted by the board of education to guide the decisions of the board and the school administrator when problems which are similar in nature are considered.

Continuous evaluation of board policies is necessary. Evaluation points our strong and weak points in the school system and establishes a basis for future action. The administrator and professional staff should be expected to assist school boards in evaluating the educational program by providing the necessary facts.

School board members often hear comments and criticisms from pupils, school staff members and the general public. Care is needed to separate constructive criticisms from those based on selfish motives. Although the school board should welcome information and advice from all sources, the final responsibility for evaluation rests with the board. Only the board is empowered to translate the results of evaluation into action.

THE PLACE OF THE ADMINISTRATOR

As executive officer of the board of education, the administrator should attend all meetings of the board. He should take part in the board's discussions, clarify issues which arise, and present

suggestions and recommendations on any matters coming before the board. The administrator should be expected to see that all business to come before the board is organized and presented at the appropriate time with the proper evidence and documents place in the hands of each member. His performance can contribute a great deal to the efficiency of school board meetings.

Perhaps no single area of school board responsibility is more important than establishing good working relationships with the school administrator. Failure to meet this responsibility results in disruption of the educational program of the district and poor community attitudes about the schools. Unless harmony based on mutual trust and understanding exists, a good educational program cannot be developed and the children of the community become the losers.

The school administrator, as executive officer of the board of education, bears major responsibility for translating the board's policies into an operating educational program. In fact, the effectiveness of the board's policies will be determined largely by the skill with which the administrator and his staff convert policies into action. It is imperative that school board members recognize that the board is responsible for establishing policy. The administrator is responsible for its execution.

The school administrator is entitled to know whether or not his work is satisfactory to the board. If his performance fails to measure up to the expectations of the board, his shortcomings should be pointed out in frank and honest discussion.

There may come a time when it is necessary to release an administrator. If an administrator has been advised of his shortcomings, has been given an opportunity to correct them, and still persists in them, dismissal is the only alternative. It should never come as a surprise to him.

Less disruption in the community and the school system will occur if the administrator is given the opportunity to resign before he is dismissed or denied a renewal of his contract. If the administrator refuses to accept this alternative, dismissal or non-renewal of his contract is necessary. Fair and considerate treatment should always be the rule.

Mr. Eglseder's performance has been constantly evaluated by the board. His shortcomings over the years, have been pointed out to him.

In November 1976, the board was made aware that on Decmeber 8, 1976, a new law, Chapter 379, Laws of 1975 which amended S.118.24 of the Wisconsin Statutes, would become effective. The main thrust of this new law concerned procedures governing notice of renewal and non-renewal, acceptance or rejecting of renewed contracts and requests by an administrative staff member for a hearing before the board. The hearing could be either private or public.

Mr. Eglseder's contract expiration date is June 30, 1977. By mandate of this new law, the board had to send Mr. Eglseder his notice of consideration of non-renewal before January 31, 1977.

On January 28, 1977, Mr. Eglseder replied to the board that he desired a public rather than a private hearing.

On January 31, 1977, Mr. Klebenow asked Mr. Eglseder what his thoughts were concerning this consideration of non-renewal. Mr. Eglseder replied that he thought that he would just wait to see how things developed. At no time did he want to discuss this very serious matter privately with the board.

The board met in special session on February 10, 1977, to compile the reasons why Mr. Eglseder's contract was being considered for non-renewal. An official list was prepared and sent on February 14, 1977. On February 18, 1977, Mr. Eglseder requested the board to be more specific in the list of reasons. The board met in executive session February 21, 1977, to draw up an expanded list of reasons. The list was handed to him at 3:00 A.M. Tuesday morning, February 22, 1977. That same evening, February 21, Mr. Klebenow met with Mr. Eglseder to discuss the forthcoming public hearing, scheduled for February 24, 1977. Mr. Eglseder asked if the board was going to have counsel present. As Mr. Eglseder had previously stated that he was going to be his own representative he was informed that the board felt no need for counsel. Both agreed that the hearing should be very low keyed with Mr. Eglseder sincerely answering the board's complaints and hopefully convincing the board to renew his contract.

The board of education of the School District of Drummond does put in a lot of time providing for the needs of the district. The board has a very good idea what is going on in all phases of administration and education in this district.

As school board members duly elected by the school district we feel the electorate felt some credibility in our judgment and in our view points on education. We feel that we all took our oath of office with a sincere acceptance of responsibility to do the best possible job our abilities would permit. Our goals are to have equal interest in:

1. the product of the class room
2. to get the most for the district's money in every area.

We do not feel that we have been derelict in our duties. Our decisions are based on what we determined is best for the Drummond School District, with emphasis on continually improving our educational product.

Questions have been asked by citizens concerning the board's decision on non-renewal and on other issues.

Let's examine this whole situation of non-renewal.

I just gave the dated events that led to this culmination . . . the non-renewal of Mr. Eglseder's contract. I realize that it appears that the board acted in haste, but please reflect on one event, the new law chapter 379, Laws of 1975' which amended S.118.24 of the Wisconsin Statutes. Please remember that this law went into effect on Decmeber 8, 1976. Our school board was first aware of this new law in November 1976, when a summary was published in our Wisconsin School Board Association magazine. Because of the unfortunate timing of this new law, it had to be done within the specified time limits. -- Therefore, the seemingly hasty board action on January 26, 1977 which notified him that his contract was being considered for non-renewal.

May I repeat what I said a few minutes ago. The board of education of the school district of Drummond does put in a lot of time providing for the needs of the district. The board has a very good idea what is going on in all phases of administration and education in this district.

Certainly we can and did list reasons why we were considering non-renewal of Mr. Eglseder's contract.

Remember the responsibilities school board members are charged with. Remember what I concluded in my official list of reasons to Mr. Eglseder. And I quote: 'One of the functions of the board is that of making a continuous appraisal of the school system. The majority of the members of the board lack confidence in your ability to perform the duties of school administrator. Accordingly, and with regret, we must consider non-renewal of your contract.'

Fellow citizens and parents, teachers;

Mr. Eglseder, I do wholeheartedly agree with you that we have learned a tremendous lot these past couple of weeks. We have a fine faculty. We have a fine group of non-teaching personnel. We have a fine student body and an eager and concerned community. You asked us to keep it that way. But you failed to convince us that you were sincere. You set yourself accountable to the people and not to the board of education.

Ladies and gentlemen, what this meeting here tonight is all about can be boiled down to two things -- accountability and control.

School problems are most often people problems. 52% of the budget goes for salaries with teachers alone receiving 49%. The development of any effective system that holds teachers and administrators accountable for their performance is desirable but probably unlikely.

Teachers' unions claim that they are in favor of meaningful accountability. In practice they oppose every effort to sort out the good teachers from the bad. They admit that some teachers are not very good and a few are very bad but resist every effort to do anything about it.

Administrators proclaim their dedication to establishing systems of accountability but in reality some are opposed to the principle. They are basically a kindly group who identify with their teachers and cannot bring themselves to give black marks to anybody. We have certainly experienced this here in Drummond.

Let's talk about our teachers. The competence of teaching personnel, at least when first employed, is probably as good or better than personnel in other lines of endeavor; but times and conditions change. Teachers, like any human being, can become disenchanted, disillusioned and disinterested in their profession or in their district. It's a great team effort, community - school board - administration - teachers, to keep the spirit of excellence high; to continually improve, to be happy in your job. And here in our school district, we might be at a low point in our teacher - school board relationship. But what some of you teachers evidently don't realize is that this school board is concerned not only with the administrative problems of this district but that this school board is also concerned with the product of your classrooms. We, the parents, are consumers. We are hiring you to perform a service. And a very important service. What could be more important in our lives than the education of our children. As consumers, why haven't we the right to control our choice of administrators and teachers.

The state had originally given us this right. From the one room schoolhouse, serving typically, a township, we have descended after mergers and consolidations to our present system - the common school district. The size has changed, but our constitutional right to control it hasn't changed.

Let me qualify that. We have our constitutional right, but in reality, do the taxpayers have much control?

Why must a state department of education order a local school system to implement a program? Might not the parents of this district have more pressing priorities for which they would like to spend their school dollar?

Establishment education thinks that it knows better than parents what parents want in schools. I say, nuts to them. A powerful lobby, this establishment is able to impose school programs from the state and local level, without the advice and consent of the parents. The teachers' unions have learned to make friends with state national politicians. Union spending is increasingly becoming the highest of any lobbying group. They push to increase federal aid to education, but this reads increased power for union officials.

Ladies and gentlemen: The objective of teachers' unions are not the same as their membership. Union leaders strive to increase their powers and perpetuate themselves in office. They aim to expand their powers by demanding, and getting, control over what have been Board of Education perogatives.

We parents will wake up some morning and find that control of our school has been seized from our elected representatives by the teachers' union dictators. These people are accountable not to the teachers or to the public but only to themselves. Parents are on a collision course with the teachers' unions, not the teachers.

Teachers of the Drummond School District, ask yourself . . . . 'What has the union done for me on pay day?' Not much, really. If you are a beginning teacher, or only a few years into your career, you have actually lost money. Who gets the highest salaries? Why of course, those with high seniority and advanced degrees.

The difference between a bachelor's and master's degree can run as high as 100%. Does the master's degree teacher have twice the competence of the bachelor degree teacher? Because he has a master's? Because he is older and more experienced? I have been affiliated with construction unions for over 20 years. I know all that's good and all that's bad about them. But at least they got their members an equitable wage . . . . and some pretty high ones at that. You teachers need answers to these questions: answers that are not likely to be provided by your unions.

Now let me give your union leaders fair warning. The board of Education of the School District of Drummond will not put up with your nonsensical demands in our future negotiations. Because you have resorted to twisted news releases about our past negotiations, I shall endeavor to keep the public informed of our every move in the future.

Ladies and gentlemen, teachers and administrators, if these remarks seem beligerent, I don't apologize. I can only say that this board will have accountability and control.

To the good, sincere teachers of this district, let me say this: teaching is an art, not a science. The enthusiasm of the teacher for his subject and his ability to infect pupils with the vital spark of interest and inquiry is the most important learning ingredient. Class size, textbooks and buildings are of less importance.

You good, sincere teachers . . . . keep up the good work. Your efforts are known and appreciated.

The popular impression that teachers are overpaid is not true--for the good teachers. They are seriously underpaid and for this reason many do not stay long in the profession. The poor teachers are overpaid at any price. Badly needed are schools which will reward teachers for an outstanding job, and which have a teaching philosophy they can identify with. Schools should be allowed to seek out better teachers and offer them more money, fringe benefits, freedom to teach--or all three!

The key person in any school system is the administrator. In a real sense the administrator is the man in the middle. He represents the employer and yet he is the employee's leak to the board. He is also a liason [sic] between the community and the school. And as such, he must be able to work with the people in the community and design a school program to reflect their needs. An administrator must have the ability to see problems from all points of view. He must have an honest respect for opinions of other people and be able to retain his own.

I think that I speak for the board when I say that we are sorry to see the disruption our actions have taken. In many respects I am glad that we must be mute tonight in our discussions of reasons given for non-renewal. For after all most of you people know the reasons and further discussions will only add to this community disruption.

I think that I speak for the board when I say that Don Eglseder is a very good man, a compassionate human being. We thank him for his many contributions to this community. We wish him the very best in his future endeavors."