

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

MILWAUKEE DISTRICT COUNCIL 48, AFSCME,
AFL-CIO and its affiliated LOCAL 80,
CITY & SCHOOL EMPLOYEES OF WEST ALLIS

Case XXII
No. 21633 ME-1435
Decision No. 15997

Involving Certain Employes of

SCHOOL DISTRICT OF WEST ALLIS -
WEST MILWAUKEE, ET AL 1/

Appearances:

Mr. Earl Gregory, Staff Representative, on behalf of Petitioner.
Foley & Lardner, Attorneys at Law, by Ms. Carolyn Burrell,
on behalf of the District.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER DISMISSING PETITION

Milwaukee District Council 48, AFSCME, AFL-CIO and its affiliated Local 80, City & School Employees of West Allis, herein Petitioner, having filed a petition 2/ with the Wisconsin Employment Relations Commission, herein Commission, wherein it requested to represent "all regular and part-time clerical and secretarial employes", but excluding confidential, managerial, and supervisory employes in the employ of School District of West Allis - West Milwaukee et al., herein the District; and a hearing 3/ having been held in Milwaukee, Wisconsin on June 1, 1976 before Hearing Examiner Amedeo Greco; and the District having thereafter filed a brief; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, hereby issues the following Findings of Fact, Conclusion of Law and Order Dismissing Petition.

FINDINGS OF FACT

That the West Allis - West Milwaukee Education Secretaries Association, herein the Association, has represented the above described employes for a number of years; that the Association has not been certified by the Commission to represent said employes; that the District has voluntarily recognized the Association as the spokesperson for said employes; that by letter dated January 23, 1977 the Association advised the District that it desired to negotiate for "the next agreement for the period beginning January 19, 1976," that in 1975 and 1976 the Association and the District thereafter engaged in collective bargaining negotiations; that the Association at that time presented approximately twenty-five proposals which covered such matters as wages, benefits, seniority, layoff and vacation; that said negotiations resulted in agreement on an employee handbook; that Association members and the District ratified the agreement reached in negotiations; that page 1

-
- 1/ The District's name was corrected at the hearing.
- 2/ The Petitioner's petition was amended at the hearing.
- 3/ At the hearing, the parties stipulated, and the record establishes, that Betty Latch, Adeline Manchek, and Jill Griffith are confidential employes and therefore excluded from the unit.

of the employe handbook specified that the District "continues to recognize this association as the official organization representing the secretaries and clerical employes"; that said agreement also provides for absences and leaves, holidays, jury duty, longevity, health insurance, promotion and increments, overtime, retirement, reduction in force, and recall seniority, vacation, transfers, and wages; that the wages set therein cover the years 1976, 1977 and 1978; that the policy handbook does not contain a signatory page; and that it cannot be reopened by the Association until after December 31, 1978.

CONCLUSION OF LAW

That the employe handbook constitutes a valid collective bargaining agreement between the District and the Association and that, as a result, the instant petition, which was not supported by a showing of interest, has been untimely filed since, as of the date on which the petition herein was filed said agreement, by its terms, would not expire for at least nineteen months.

ORDER DISMISSING PETITION

That since the instant petition was untimely filed, and as it was not supported by a showing of interest, the instant petition be, and the same hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin this ~~16th~~
day of December, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman
Herman Torosian
Herman Torosian, Commissioner
Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

MEMORANDUM ACCOMPANYING FINDING OF FACT, CONCLUSION
OF LAW AND ORDER DISMISSING PETITION

The primary issue herein is whether the policy handbook constitutes a bar to the filing of the instant petition, 4/ within the District claiming, and the Petitioner denying, that that agreement is a bar.

In this connection, the Union claims that the agreement herein does not contain a signatory page and that it does not have a expiration date and that, as a result, it is not a valid collective bargaining agreement.

As to the absence of a signatory page, however, the Commission does not find that fact to be dispositive where, as here, the totality of the record establishes that parties have negotiated for a contract and where they thereafter reduce their agreement to writing.

Turning to the question of an expiration date, the agreement on three separate pages expressly spells out the wage rates for various employee classifications in 1976, 1977, and 1978. Furthermore, by virtue of those wage rates, Betty Forehlich, the President of the Association, testified that the agreement could not be reopened until the expiration of those wage rates, which would be on December 31, 1978. This testimony was corroborated by Dale Aleckson, the District's Director of Business Services, who testified to the same effect. Accordingly, in light of the above, it must be concluded that the agreement does have an effective expiration date of December 31, 1978.

Furthermore, the record shows that the Association and the District engaged in collective bargaining negotiations before entering the 1976-1978 agreement, that the parties thereafter ratified the agreement which they had reached, and that that agreement covers the wages, hours and conditions of employment for the affected employees.

In such circumstances, the Commission finds that the agreement between the District and the Association constitutes a bar to the instant petition. 5/ Accordingly, and because the petition was not accompanied by the requisite showing of interest, the petition is hereby dismissed. Any renegotiation of the agreement prior to July 1, 1978 extending its terms beyond December 31, 1978 will not be deemed to bar a petition filed by the Union, and supported by the necessary showing of interest. If no such renegotiation occurs

4/ See, for example, Waukesha Voc. District No. 8 (Decision No. 11076) 6/72 and Outagamie County (Decision No. 11923) 6/73.

5/ See, for example, Adams-Friendship Jt. School District (Decision No. 14525) 4/76.

prior to July 1, 1978 the Union may timely file a petition within sixty (60) days prior to the latter date.

Dated at Madison, Wisconsin this 16th day of December, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman
Herman Torosian
Herman Torosian, Commissioner
Charles D. Hoornstra
Charles D. Hoornstra, Commissioner