

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

MILWAUKEE TEACHERS EDUCATION  
ASSOCIATION,

Complainant,

vs.

MILWAUKEE BOARD OF SCHOOL DIRECTORS,  
ADMINISTRATORS AND SUPERVISORS COUNCIL,  
and PSYCHOLOGISTS ASSOCIATION OF THE  
MILWAUKEE PUBLIC SCHOOLS,

Respondents.

Case XCVIII  
No. 22928 MP-853  
Decision No. 16338-A

ORDER DENYING MOTION TO CONSOLIDATE;  
SETTING SCHEDULE FOR THE SUBMISSION OF ARGUMENT  
AND SETTING HEARING IN THE MATTER

The Milwaukee Teachers Education Association, hereinafter MTEA, filed a complaint of prohibited practices on April 21, 1978 against the Milwaukee Board of School Directors, hereinafter the Employer, the Administrators and Supervisors Council, hereinafter ASC, and the Psychologists Association of the Milwaukee Public Schools (PAMPS) wherein it alleges that the Employer violated Sections 111.70(3)(a)1 and 2 of the Municipal Employment Relations Act (MERA) and that PAMPS violated Sections 111.70(3)(b)1 and 2 of MERA. On May 1, 1978, the Commission appointed Sherwood Malamud, a member of the Commission's staff to act as Examiner and authorized him to make and issue Findings of Fact, Conclusions of Law and Order in the matter. Hearing in the matter was set by the Examiner for May 24, 1978, but due to a conflict in the schedule of Complainant's counsel said hearing was cancelled. On May 15, 1978, PAMPS filed an answer in the matter and a Motion to Dismiss the Complaint; on May 16, 1978 ASC and the Employer filed their answers to the complaint as well as Motions to Dismiss the within complaint. Then on May 17, 1978, the MTEA filed a Motion to Consolidate the within complaint case, hereinafter Case XCVIII with the election cases, specifically Case LX and Case XCIV involving the same parties to the complaint case and in which Sherwood Malamud was assigned as an Examiner for the Commission. On May 24, 1978, PAMPS expressed its opposition to Complainant's Motion to Consolidate Case XCVIII with Cases LX and XCIV. Then on May 31, 1978, Complainant noted that its Motion to Consolidate Case XCVIII with Cases LX and XCIV was for hearing purposes only, and not for purposes of decision. Hearing in Cases LX and XCIV were commenced on February 21 and continued on February 22, 23, 24, 1978 and additional dates for hearing have been set for and will commence on June 7, 1978 with additional dates for hearing established, if necessary, for June 8, 9, 12, 13, 14 and 15, 1978. The Examiner considered the Motions, written statements and arguments of the parties and being fully advised in the premises, he makes and files the following

ORDER

1. That the Motion to Consolidate Case XCVIII with Cases LX and XCIV for hearing purposes only be, and the same hereby is, denied.
2. That the parties to the within complaint may, if they so desire, file written argument on the Motions to Dismiss filed by the

Employer, ASC and PAMPS by June 30, 1978, and serve copies of said argument on the Examiner as well as the other parties to this proceeding. Furthermore, the parties may file reply briefs by July 10, 1978.

3. That should hearing in the above matter become necessary, the following schedule shall apply:

A. Pre-hearing conference for the purpose of narrowing issues, consideration of pre-hearing motions, formulation of stipulations of facts, and any other appropriate matter will be held on September 21 and 22, 1978.

B. Hearing in the matter will convene on October 23 and 24, 1978.

Dated at Madison, Wisconsin this 5th day of June, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Sherwood Malamud, Examiner

MEMORANDUM ACCOMPANYING  
ORDER DENYING MOTION TO CONSOLIDATE;  
SETTING SCHEDULE FOR THE SUBMISSION OF ARGUMENT  
AND SETTING HEARING IN THE MATTER

The MTEA noted in its statement in support of its Motion to Consolidate that:

"3. If the matters are not consolidated for hearing, it will be necessary to reintroduce voluminous and time consuming evidence in the subsequent prohibited practice case. This will cause undue delay and burden for the Commission and the parties.

4. If the matters are consolidated for hearing, they can be severed at the completion of the previously scheduled hearing so that there will be no delay in the decision-making process with respect to the representation proceedings. The evidence adduced therein will be available to the Commission in the subsequent prohibited practice proceedings."

The Examiner shares the concern of the MTEA and PAMPS for the expeditious adjudication of all matters raised in the complaint and election cases. He differs with Complainant as to the method of achieving that goal. Consolidation of the complaint case (XCVIII) with the election cases at this stage of the election proceeding, will cause confusion and delay. The procedures established for the presentation of evidence in the election case would have to be abandoned. One procedure established in the Examiner's Summary of Conference for the presentation of evidence in Cases LX and XCIV was the elimination of rebuttal evidence. If consolidation were to occur, this procedure would be abandoned and hearing in the matter extended. If granted, Complainant's motion would cause far more delay than completing the election hearings and then in a separate proceeding going forward with the adjudication of the complaint. Should hearing on the complaint become necessary, then the parties could stipulate to the use of the record in Cases LX and XCIV for certain appropriate issues.

Finally, it would be impossible for the Examiner to hear argument on Respondents' Motions to Dismiss and dispose of same prior to the hearing scheduled on June 7, 1978. For all of the above reasons, the Examiner denied Complainant's Motion to Consolidate.

The schedule set for argument of the Motions to Dismiss together with the pre-hearing conferences prior to a hearing set out above, should facilitate and expedite the adjudication of the complaint.

Dated at Madison, Wisconsin this 5th day of June, 1978.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 

Sherwood Malamud, Examiner