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MILWAUKEE TEACHERS'	:	
EDUCATION ASSOCIATION,	:	
	:	
	:	
Complainant,	:	
	:	
	:	Case CXL
vs.	:	No. 30557 MP-1394
	:	Decision No. 20139-C
MILWAUKEE BOARD OF	:	
SCHOOL DIRECTORS,	:	
	:	
	:	
Respondent.	:	
	:	

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Examiner Mary Jo Schiavoni issued her Findings of Fact, Conclusions of Law and Order on June 21, 1983, in which, inter alia, she ordered the Respondent, Milwaukee Board of School Directors, to rescind the informal complaint procedure relating to instances of sexual harrassment and to bargain upon request in good faith with appropriate representatives of Complainant, Milwaukee Teachers Education Association, with regard thereto. The Examiner issued various Conclusions of Law in which she addressed various allegations of violations of the Municipal Employment Relations Act, hereinafter MERA. The Examiner, however, did not address or consider Complainant's allegation that Respondent independently violated Section 111.70(3)(a)1 of MERA by refusing to permit an accused employee union representation in the informal procedure, if he so desires.

Accordingly, the Examiner issues the following

7. That Respondent, by unilaterally adopting the informal procedure without the consent of the Complainant, did not independently commit a prohibited practice within the meaning of Section 111.70(3)(a)1 of MERA.

IT IS FURTHER ORDERED that the complaint be dismissed as to all violations of the Municipal Employment Relations Act alleged, but not found herein.

Furthermore, that the Examiner's Memorandum at p. 25 is hereby modified by adding before the last paragraph the following paragraph to conform the Memorandum to the Order Modifying Examiner's Order issued herein:

Complainant has also alleged that Respondent's action in implementing the informal complaint procedure independently violates Section 111.70(3)(a)1 of MERA, citing NLRB v. Weingarten, 420 U.S. 251 (1975). The Commission adopted the U.S. Supreme Court's Weingarten rationale, in Waukesha County (14/662-A, B) 3/78, when it held that Section 111.70(2) provides an employee with a statutory right to union representation during involuntary contacts with supervisory personnel which the employee has reasonable cause to believe could result in disciplinary action being taken against him. The Examiner, however, does not find a Weingarten violation to have occurred because there is no evidence that any employee has involuntarily participated in the informal procedure or been denied union representation after having requested such representation. While Complainant has demonstrated that the informal procedure presents the potential for discipline, it has not demonstrated that Respondent's unilateral action in implementing said informal procedure has hampered any employee's right to union representation during an involuntary conference with supervisory personnel. Accordingly, it is concluded that Respondent did not independently violate Section 111.70(3)(a)1 of MERA.

Dated at Madison, Wisconsin this 6th day of July, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Mary Jo Schiavoni  
Mary Jo Schiavoni, Examiner