STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

DISTRICT COUNCIL 48, and its

affiliated LOCAL 1954,

AFSCME, AFL-CIO

Involving Certain Employes of

COMMUNITY LEARNING CENTER,

INC.

Appearances:

Mr. Nick Ballas, Staff Representative, District Council 48, AFSCME, AFL-CIO, 3427 West St. Paul Avenue, Milwaukee, Wisconsin 53208, appearing on behalf of the petitioning Union.

Ms. Suzanne Larson, Executive Director, Community Learning Center, Inc., P.O. Box 97, Port Washington, Wisconsin 53074, appearing on behalf of the Employer.

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND DIRECTION OF ELECTION

District Council 48 and its Affiliated Local 1954, AFSCME, AFL-CIO, having filed a petition on January 10, 1983 requesting the Wisconsin Employment Relations Commission to conduct an election among certain employes of Community Learning Center, Inc., Port Washington, Wisconsin to determine whether said employes desire to be represented by said Union for purposes of collective bargaining; and hearing having been held in the matter on February 17, 1983, in Port Washington, Wisconsin before Examiner Mary Jo Schiavoni; and additional evidence having been received on February 25, 1983; and the Commission having considered the evidence and being fully advised in the premises makes and issues the following

FINDINGS OF FACT

- 1. That District Council 48 and its Affiliated Local 1954, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization having its offices at 3146 North 42nd Place, Milwaukee, Wisconsin.
- 2. That Community Learning Center, Inc., hereinafter referred to as the Employer is a non-profit corporation community-based and engaged in providing such services as child care, elderly care, adult job training and other related social services and has its offices at 1234 Lincoln Street, Port Washington, Wisconsin, LL and KK, Port Washington, Wisconsin, and 10606 North Port Washington Road, Mequon, Wisconsin.
- 3. That at hearing the Employer objected to the jurisidiction of the Commission to conduct an election in this matter; that, however, the record does not establish that the Employer's gross annual services for any year of its operation ever reached \$250,000, which is the standard for exercise of jurisdiction over nonprofit day care centers utilized by the National Labor Relations Board; 1/ and that the Employer has not requested the National Labor Relations Board to assert jurisdiction.
- 4. That in its petition initiating the instant proceeding the Union requested the following collective bargaining unit:

All employes including teachers, substitutes and food service employes excluding the director and administrative assistant.

^{1/} Blaylock Nursery School, 260 NLRB No. 195; 109 LRRM 1312 (1982).

5. That during the course of the hearing and thereafter, the parties stipulated that the appropriate unit should properly be described as follows:

All regular full-time employes and regular part-time employes including teachers and food service employes employed by the Employer but excluding the Executive Director, the Assistant Directors, substitute employes and any other supervisors as defined in the Act.

- 6. That also during the course of the hearing the parties stipulated that Suzanne Larson, Gail Haas and Karen Ringland are supervisors, and therefore ineligible to vote.
- 7. That the Union in writing on January 7, 1983 requested recognition as the bargaining representative of the Employer's employes; and that the Employer continues to refuse to recognize the Union as the collective bargaining representative of its employes.

Upon the basis of the above and foregoing Findings of Fact, the Commission makes and issue the following

CONCLUSIONS OF LAW

- 1. That inasmuch as the gross annual revenues of the Employer for any year do not meet the standard for assertion of jurisdiction by the National Labor Relations Board, the Wisconsin Employment Relations Commission possesses jurisdiction to conduct a representation election within the meaning of Section 111.05 of the Wisconsin Employment Peace Act among certain employes of Community Learning Center, Inc.
- 2. That a question of representation within the meaning of Section 111.05(3) of the Wisconsin Peace Act presently exists in an appropriate collective bargaining unit consisting of all regular full-time and regular part-time employes including teachers and food service employes employed by the Employer excluding the Executive Director, the Assistant Directors, substitute employes and any other supervisors as defined in the Wisconsin Peace Act.

Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

DIRECTION OF ELECTION

It is hereby directed that an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within forty-five (45) days from the date of this directive in the collective bargaining consisting of all regular full-time and regular part-time employes including teachers and food service employes employed by the Employer, excluding the Executive Director, the Assistant Directors, substitute employes and any other supervisors as defined in the Wisconsin Peace Act who were employed by the Employer on April 7, 1983, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of said employes voting desire to be represented for the purpose of collective bargaining by District Council 48, and its Affiliated Local 1954, AFSCME, AFL-CIO, on matters relating to wages, hours and working conditions.

Given under our hands and seal at the City of Madison, Wisconsin this 7th day of April, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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Gary L. Covelli, Commissioner

Marshall L. Gratz, Commissioner

COMMUNITY LEARNING CENTER, Case I, Decision No. 20512

MEMORANDUM ACCOMPANYING FINDINGS OF FACT, CONCLUSIONS OF LAW AND DIRECTION OF ELECTION

In this proceeding the Union requests the Commission to direct an election among certain employes of the Employer. The parties stipulated to the appropriate bargaining unit, the composition of said unit, the status of the Union as a labor organization, and the existence of a question concerning representation.

The only issue is the Employer's objection to the Commission's assertion of jurisdiction to conduct an election in this matter.

Generally speaking the Commission will assume jursidiction where it is satisfied that the dollar volume of the Employer's business is below the minimum established by the National Labor Relations Board as a standard for the exercise of its jursidiction. 2/

The Commission takes administrative notice of National Labor Relations Board decisions applicable to an enterprise such as the Employer. The NLRB will apply the same standard to a non-profit organization as it does to a similar commerical enterprise. 3/

The NLRB has asserted jurisdiction over day care operations where such operations have a gross annual income of \$250,000 or more. 4/

Inasmuch as the record does not establish that the Employer has ever had \$250,000 in gross annual revenues for any of the years of its operation, nor has it requested the National Labor Relations Board to assert jurisdiction, the Commission is satisfied that it possesses jurisdiction to conduct an election in this matter.

Dated at Madison, Wisconsin this 7th day of April, 1983.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Вv

Gary L. Covelli, Commissioner

Marchall | Gratz Commissioner

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^{2/ &}lt;u>Cooper-Utter Lumber Co.</u> (3739) 5/54; <u>Delafield Lumber & Fuel Co.</u> (7441) 5/54; <u>Picasso Plaza, LTD</u> (8608) 7/68

^{3/} Disabled American Veterans, Inc., (Idento Tag Operation) 112 NLRB 864, 866, LRRM (1955); and Blaylock Nursery School, supra

^{4/} Salt & Pepper Nursury School & Kindergarten No. 2, 222 NLRB 1295, LRRM (1976) and Blaylock Nursery School, supra.