

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
**TEAMSTERS UNION LOCAL NO. 695**  
Involving Certain Employees of  
**MOUNT HOREB AREA SCHOOL DISTRICT**

Case 7  
No. 60617  
ME-3851

**Decision No. 23377-B**

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**Appearances:**

**Mr. Gene Gowey**, Business Representative, Teamsters Union Local No. 695 , 1314 North Stoughton Road, Madison, Wisconsin 53714-1293 appearing on behalf of Teamsters Local Union 695.

Lathrop & Clark, by **Attorney Michael J. Julka**, 740 Regent Street, Suite 400, P.O. Box 1507, Madison, Wisconsin 53701-1507, appearing on behalf of Mount Horeb Area School District.

**Attorney Anthony L. Sheehan**, Staff Counsel, Wisconsin Education Association Council, P.O. Box 8003, Madison, Wisconsin 53708-8003, appearing on behalf of Mt. Horeb Auxiliary Personnel/Southwest Education Association.

**AMENDED DIRECTION OF ELECTION**

On December 5, 2001, Teamsters Union Local 695 filed a petition with the Wisconsin Employment Relations Commission seeking an election to determine whether certain employees of the Mount Horeb School District wished to continue to be represented for the purposes of collective bargaining by the South West Education Association or wished to be so represented by Local 695 or wished not to be represented.

**To maximize the ability of the parties we serve to utilize the Internet and computer software to research decisions and arbitration awards issued by the Commission and its staff, footnote text is found in the body of this decision.**

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By letter dated December 6, 2001, the Commission advised the parties as follows:

Teamsters Union Local No. 695 has filed a petition with the Commission requesting that an election be conducted among the employees in the bargaining unit described on the attached petition. In said petition the Petitioner alleges that South West Education Association may have an interest in the matter.

Said petition was supported by a number of employees. In order to determine whether at least 30% of the employees support the petition, it is necessary that you immediately furnish us a list of the names in alphabetical order of the employees who were employed in the bargaining unit involved on December 5, 2001. If, after an administrative determination, the Commission is satisfied that the showing of interest is sufficient, the Commission may set hearing in the matter, unless the parties stipulate to an election. If there is presently a collective bargaining agreement in effect, will you please forward a copy of same to the Commission. If no such agreement exists, will you please so advise.

As requested, the District provided an employee list.

By letter dated December 13, 2001, the Commission advised the parties as follows:

The Commission has determined that the petition in the captioned matter was accompanied by a sufficient showing of interest. Therefore, the petition will be processed.

If the parties are able to stipulate to an election, Dr. Anderson should sign the enclosed stipulation forms and forward the forms and current voter eligibility lists to Mr. Shipley. After signing the forms, Mr. Shipley should send the forms and lists to Mr. Govey, who should sign the forms and return the forms and lists to the undersigned. A copy of the signed form will be returned to each party.

If you have any questions or if you are not able to stipulate to an election, please contact the undersigned at (608) 266-2993.

On January 3, 2002, the Commission received a Stipulation For Election signed by all parties. Pursuant to that Stipulation, the Commission issued a Direction of Election on January 3, 2002 in the above matter which stated the following:

That an election by secret ballot shall 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 unit consisting of all regular full-time and regular part-time non-professional employees of the Mount Horeb Area School District, including paraprofessionals, custodians, bus

drivers, secretaries and food service employees, but excluding supervisors, confidential, managerial and executive employees, who were employed on January 3, 2002, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether such employees desire to be represented by Teamsters Union Local No. 695, or by South West Education Association, or by neither of said organizations, for the purposes of collective bargaining with Mount Horeb Area School District.

On January 8, 2002, South West Educators Association advised the Commission that it was withdrawing from the Stipulation For Election because the authorization cards used by Local 695 to demonstrate the requisite "showing of interest" stated in bold letters "Authorization for Representation Under the National Labor Relations Act" which language was "at the very least confusing and at the most a misrepresentation which may have unduly influenced the employees." The Association asked that the Direction of Election be "rescinded" and the Petition for Election dismissed.

On January 23, 2002, Local 695 responded with written argument citing Commission precedent that the Commission's administrative determination of the showing of interest is not subject to review by the parties and further asserting that the following text of the authorization card establishes that the employees who signed the cards were not misled.

I, the undersigned employee of \_\_\_\_\_ voluntarily and of my own free will, hereby authorize Local 695, affiliated with the International Brotherhood of Teamsters to represent me for the purpose of collective bargaining as to improved wages, hours and working conditions.

Supplemental argument was received until January 30, 2002.

The District takes no specific position on the showing of interest issue but asks that the Commission proceed in a way that preserves the fairness of the election process.

We have historically held that the showing of interest determination is an administrative matter that is not subject to litigation. MILWAUKEE BOARD OF SCHOOL DIRECTORS, DEC. NO. 11165 (WERC, 7/72); STATE OF WISCONSIN, DEC. NO. 29754-A (WERC, 5/2001). We have considered the matter and conclude that consistent with existing precedent, we will not review the existing administrative determination that a valid showing of interest exists. Further, we reject as untimely the Association's effort to withdraw from the Stipulation For Election. Thus, we also reject the Association's request that the Direction of Election be rescinded and the petition for election dismissed. 1/

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*1/ We note that our January 3, 2002 Direction of Election and our Notice of Election (which will be provided to and posted by the District once an election date is established) fully inform the employee voters of the representation choice they will resolve through the secret ballot election we will conduct.*

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We have issued an Amended Direction of Election only to reflect the need to extend the period within which the election will be conducted due to the delay caused by the Association's request that we review the showing of interest.

**AMENDED DIRECTION OF ELECTION**

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within ninety (90) days of January 3, 2002 in the collective bargaining unit consisting of all regular full-time and regular part-time non-professional employees of the Mount Horeb Area School District, including paraprofessionals, custodians, bus drivers, secretaries and food service employees, but excluding supervisors, confidential, managerial and executive employees, who were employed on January 3, 2002, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether such employees desire to be represented by Teamsters Union Local No. 695, or by South West Education Association, or by neither of said organizations, for the purposes of collective bargaining with Mount Horeb Area School District.

Given under our hands and seal at the City of Madison, Wisconsin, this 8th day of February, 2002.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

A. Henry Hempe /s/

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A. Henry Hempe, Commissioner

Paul A. Hahn /s/

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Paul A. Hahn, Commissioner

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