

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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JESUS BARBARY and MARK J. BENZING, :
Complainants, :
vs. : Case 50
WISCONSIN EDUCATION ASSOCIATION COUNCIL : No. 46915 MP-2558
and BLACKHAWK TECHNICAL COLLEGE, : Decision No. 27140-A
Respondents. :
- - - - -

ORDER DENYING MOTION TO DISMISS AND
GRANTING MOTION TO MAKE THE
COMPLAINT MORE DEFINITE AND CERTAIN

On August 8, 1991, Complainants Jesus Barbary and Mark J. Benzing filed a complaint of unfair labor practices against the Wisconsin Education Association Council with the Wisconsin Employment Relations Commission. On January 8, 1992, the Complainants requested that the complaint be amended to include Blackhawk Technical College as a respondent or party to the complaint. On January 27, 1992, Blackhawk Technical College filed a Motion to Dismiss the Complaint or in the alternative To Make the Complaint More Definite and Certain. On February 5, 1992, the Commission appointed Lionel L. Crowley, a member of its staff, to act as Examiner and to make and issue Findings of Fact, Conclusions of Law and Order as provided in Sec. 111.07(5), Stats. The Examiner did not receive any statement from Complainants concerning said motions. Wisconsin Education Association Council by counsel in a letter dated February 5, 1992 indicated it is not opposed to the motion to make the complaint more definite and certain. The Examiner, being fully advised in the premises, makes and issues the following

ORDER

1. The Motion to Dismiss is hereby denied.
2. The Complainants shall amend their complaint to show clearly and concisely by a statement of facts what constitutes the alleged prohibited practices committed by Blackhawk Technical College as required by Wis. Adm. Code ERB 12.02(2). Additionally Complainants shall specify the section of Sec. 111.70(3), Stats., alleged to have been violated by Blackhawk Technical College and Wisconsin Education Association Council.
3. The Complainants shall also amend their complaint by adding a statement that the filing fee established by Sec. 111.71(2), Stats., accompanies the complaint.
4. These amendments shall be filed with the Examiner with a copy of the same mailed to:

Mr. Jon E. Anderson
Godfrey & Kahn, S.C.
Attorneys at Law
131 West Wilson St., Suite 202
P.O. Box 1110
Madison, WI 53701-1110

Mr. Stephen Pieroni
Staff Counsel
Wisconsin Education Association
Council
33 Nob Hill Drive
P.O. Box 8003

No. 27140-A

Madison, WI 53708

on or before February 27, 1992.

Dated at Madison, Wisconsin this 13th day of February, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Lionel L. Crowley, Examiner

BLACKHAWK TECHNICAL COLLEGE

MEMORANDUM ACCOMPANYING ORDER DENYING
MOTION TO DISMISS AND GRANTING MOTION
TO MAKE THE COMPLAINT MORE DEFINITE AND CERTAIN

Wisconsin Administrative Code, section ERB 12.02(2), (c), (d) and (e) provide that a complaint must contain, inter alia:

(c) A clear and concise statement of the facts constituting the alleged prohibited practice or practices, including the time and place of occurrence of particular acts and the sections of the statute alleged to have been violated thereby.

(d) A prayer for specific and general relief.

(e) A statement that the filing fee established by s. 111.71(2), Stats., accompanies the complaint.

The Examiner has granted the Respondent's Motion to Make the Complaint More Definite and Certain in order to comply with the Commission's rules. The information sought by the Respondent will enable it to determine with specificity the facts constituting the alleged prohibited practice and to permit it to prepare a response to the charge.

The Examiner has denied the Respondent's Motion to Dismiss at this time as being premature.

Dated at Madison, Wisconsin this 13th day of February, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By _____
Lionel L. Crowley, Examiner