

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-B  
Respondents. :  
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ORDER DENYING MOTION TO REOPEN RECORD

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 and on January 8, 1992, amended their complaint to include Blackhawk Technical College as a Respondent. 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.

Hearing on said complaint was held on May 11, 1992 in Janesville, Wisconsin. On June 5, 1992, the Complainants filed a Motion to Reopen the Record and on June 10, 1992 and June 12, 1992, respectively, the Respondents Blackhawk Technical College and Wisconsin Education Association Council objected to said Motion. The Examiner, being fully advised in the premises, makes and issues the following

ORDER

The Motion to Reopen the Record is hereby denied.

Dated at Madison, Wisconsin this 18th day of June, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By \_\_\_\_\_  
Lionel L. Crowley, Examiner

BLACKHAWK VOCATIONAL, TECHNICAL & ADULT EDUCATION DISTRICT

MEMORANDUM ACCOMPANYING ORDER DENYING  
MOTION TO REOPEN RECORD

Wisconsin Administrative Code, section ERB 10.19 provides, in part, as follows:

The hearing may be re-opened on good cause shown.

The Complainants have asserted that the additional documents sought to be put in the record are:

1. Pertinent to the hearing held on May 11, 1992.
2. Part of Complainants' defense.
3. Relevant to Complainants' brief.

A review of the proffered exhibits reveals the following:

Exhibit A is a copy of a portion of Section 111.06, Stats. Any party is free to refer to a section of the statutes in a brief and this document need not be admitted as an exhibit.

Exhibits B, C and D refer to a statement made by Mr. Stiegman and the record contains undisputed testimony regarding this. Furthermore these documents were all available prior to the hearing on May 11, 1992, thus these are mere surplusage and no good cause is shown to reopen the record to admit them.

Exhibit E is the Union's Newsletter and its relevance to the instant matter is not established. Additionally, the document was available prior to the May 11, 1992 hearing and no good cause is shown to reopen the record to receive it.

Exhibits F, G and H consist of statements of opinion about various matters. Admission of these would not allow an opportunity to cross examine the makers of these statements. Additionally, there is no showing that these statements are pertinent or relevant to the issues in the case or would be given any weight as to any issue before the Examiner. Consequently, no good cause is shown to reopen the record to receive them.

In summary, the proffered exhibits are unnecessary, cumulative or irrelevant to the issues before the undersigned, and therefore, the Motion to Reopen the Record has been denied.

Dated at Madison, Wisconsin this 18th day of June, 1992.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By \_\_\_\_\_  
Lionel L. Crowley, Examiner