

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

: :
MILWAUKEE TEACHERS' : :
EDUCATION ASSOCIATION, : :
: Case 245
Complainant, : No. 46922 MP-2562
: (Dennis Malm)
vs. : Decision No. 27221-B
: :
MILWAUKEE PUBLIC : :
SCHOOLS, : :
Respondent. : :
: :

Appearances:

Perry, Lerner & Quindel, S.C., 823 North Cass Street, Milwaukee, WI 53202-3908 by Mr. Richard Perry, appearing on behalf of the Milwaukee Teachers' Education Association.
Grant F. Langley, City Attorney, City of Milwaukee, City Hall, Room 800, 200 East Wells Street, Milwaukee, WI 53202 by Ms. Mary Kuhnmuench, Assistant City Attorney, appearing on behalf of the City of Milwaukee.

ORDER MODIFYING ORDER DISMISSING COMPLAINT

Daniel J. Nielsen, Examiner: The Milwaukee Teachers' Education Association (hereinafter referred to as the Complainant) having on January 23, 1992 filed with the Wisconsin Employment Relations Commission a complaint, alleging that the Milwaukee Public Schools (hereinafter referred to as the Respondent) had violated one or more provisions of §111.70, Wis. Stats. and the Commission having appointed Daniel J. Nielsen to act as examiner and to make and issue Findings of Fact, Conclusions of Law and Orders; and the Examiner having, on June 1, 1992, conducted a mediation and hearing in Milwaukee, Wisconsin; and the parties having reached agreement on a settlement containing the following elements:

SETTLEMENT AGREEMENT

1. MPS and MTEA agree that when public statements are made by a supervisor about a teacher's confidential medical condition, such comments constitute inappropriate behavior which is properly addressed in a misconduct against such supervisor.

Further, when made in response to the invocation of a teacher's right to be represented by MTEA, such comments constitute retaliation in violation of Section 111.70, Wis. Stats.;

2. Milwaukee Public Schools reaffirms its commitment to

maintaining a workplace free of handicap discrimination and to the preservation of confidentiality of employees' physical and psychological records/conditions;

3. Post this agreement for 30 days at the Central Office, Green Bay Elementary School and Berger Elementary School;

and the parties having further agreed that the settlement agreement was entered into without any admission by either party about the facts alleged in the complaint and/or the answer, and that the settlement agreement was in complete settlement and resolution of the issues raised in the complaint, and that the complaint should be dismissed with prejudice; and the Examiner having on June 1, 1992 issued an Order Dismissing Complaint; and, within the twenty day period for modifying the Order pursuant to Section 111.07(5), Wis. Stats., a dispute having arisen between the parties as to the precise requirements of the settlement agreement; and the Examiner being satisfied that the previously issued Order should be modified so as to be made more definite

NOW, THEREFORE, it is

ORDERED 1/

1/ Any party may file a petition for review with the Commission by following the procedures set forth in section 111.07(5). Stats.

Section 111.07(5). Stats.

(5) The commission may authorize a commissioner or examiner to make findings and orders. Any party in interest who is dissatisfied with the findings or orders of a commissioner or examiner may file a written petition with the commission as a body to review the findings or order. If no petition is filed within 20 days from the date that a copy of the findings or order of the commissioner or examiner was mailed to the last known address of the parties in interest, such findings or order shall be considered the findings or order of the commission as a body unless set aside, reversed or modified by such commissioner or examiner within such time. If the findings or order are set aside by the commissioner or examiner the status shall be the same as prior to the findings or order set aside. If the findings or order are reversed or modified by the commissioner or examiner the time for filing petition with the commission shall run from the time that notice of such reversal or modification in mailed to the last known address of the parties in interest. Within 45 days after the filing of such petition with the commission, the commission shall either affirm, reverse, set aside or modify such findings or order, in whole or in part, or direct the taking of new testimony. Such action shall be based on a review of the evidence submitted. If the commission is satisfied that a party in interest has been prejudiced because of an exceptional delay in receipt of a copy of any findings or order it may extend the time for another 20 days for filing a petition with the commission.

No. 27221-B

That the June 1, 1992 Order be modified to read as follows:

1. That the Respondent Milwaukee Public Schools is ordered to post the attached Notice to Employees (Attachment "A") for a period of thirty calendar days, commencing with the thirtieth day prior to the fifth teacher work day of the 1992-93 school year, at the Berger Elementary School. Green Bay Elementary School and the Central Office.
2. That the complaint filed in the instant matter be, and the same hereby is, dismissed.

Dated at Racine, Wisconsin this 17th day of June, 1992:

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By: Daniel Nielsen /s/
Daniel J. Nielsen, Examiner

ATTACHMENT "A"

NOTICE TO SCHOOL DISTRICT EMPLOYEES

Pursuant to a settlement agreement between the Milwaukee Teachers' Education Association and the Milwaukee Board of School Directors and an Order issued by an Examiner appointed by the Wisconsin Employment Relations Commission in Case 245, No. 46992, MP-2562, school district employees are hereby notified that the parties agree as follows:

SETTLEMENT AGREEMENT

1. MPS and MTEA agree that when public statements are made by a supervisor about a teacher's confidential medical condition, such comments constitute inappropriate behavior which is properly addressed in a misconduct against such supervisor.

Further, when made in response to the invocation of a teacher's right to be represented by MTEA, such comments constitute retaliation in violation of Section 111.70, Wis. Stats.;

2. Milwaukee Public Schools reaffirms its commitment to maintaining a workplace free of handicap discrimination and to the preservation of confidentiality of employees' physical and psychological records/conditions.

MILWAUKEE PUBLIC SCHOOLS

By _____
Signature Title

This Agreement will be posted in the Central Office, Berger Elementary School and Green Bay Elementary School in a location customarily used for posting notices to employees for a period of 30 days.

This Notice is not to be covered or obscured in any way.