

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

NORTHEAST WISCONSIN TECHNICAL  
COLLEGE FACULTY ASSOCIATION, AND  
AIMEE VAN GOETHEM,

Complainants,

vs.

NORTHEAST WISCONSIN TECHNICAL  
COLLEGE,

Respondent.

Case 92

No. 54372 MP-3205

Decision No. 28909-A

Appearances:

Godfrey & Kahn, S.C., 333 Main Street, Post Office Box 13067, Green Bay,  
Wisconsin 54307-3067, by Mr. Robert Burns, Attorney at Law, appearing on  
behalf of the Respondent.

Wisconsin Education Association Council, 33 Nob Hill Drive, Post Office Box 8003,  
Madison, Wisconsin 53708, by Mr. Stephen Pieroni, Attorney at Law, appearing  
on behalf of the Complainants.

ORDER DENYING REQUEST FOR TAKING OF DEPOSITION

Daniel Nielsen, Examiner: The Complainants having, on October 26, 1996, filed a Motion to Take Deposition of William Evans, alleging that information requested for bargaining over the wages, hours and working conditions of Complainant Aimee Van Goethem, and specifically the decision to eliminate Ms. Van Goethem's position as Student Health Nurse, had not been provided by Mr. Evans, the agent for the Respondent; and further alleging that a deposition of Mr. Evans is necessary in order to provide an orderly, efficient and fair hearing in the instant litigation over the

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elimination of Student Health Nurse; and further alleging that the Complainant would be prejudiced in its preparation for the hearing if the Respondent did not

indicate prior to the hearing whether the requested documents exist and that the hearing would be unduly delayed if the information was not provided prior to the hearing; and the Respondent having submitted a written response, opposing the Motion; and the Examiner being satisfied that the Motion does not satisfy the requirement of "good cause" under ERB 10.15, Wisconsin Administrative Code;

NOW, THEREFORE, it is

ORDERED

That the Motion to Take Deposition of William Evans be, and hereby is, denied.

Dated at Racine, Wisconsin this 7th day of November, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Daniel Nielsen /s/  
Daniel Nielsen, Examiner

NORTHEAST WISCONSIN TECHNICAL COLLEGE

MEMORANDUM ACCOMPANYING ORDER DENYING  
MOTION TO TAKE DEPOSITION

The Commission has discretion to allow for the taking of depositions, but will not normally grant such requests absent "good cause shown." Formal discovery is the exception rather than the rule in administrative proceedings, and a review of the Commission's case law discloses that good cause for ordering a deposition is more than simply a legitimate reason. Granting that case preparation is likely to be enhanced and the hearing is likely to be shortened by discovery, and that filing a prohibited practice complaint over the alleged refusal to provide information requested for bargaining is not a practical method of securing the documents prior to the January 16th and 17th hearing, it is also the case that Mr. Evans is available for examination at the hearing, and that both he and the documents in his possession are within the reach of a subpoena. 1/ The Complainants have the right to amend their pleadings at the time of the hearing, and to seek additional hearing dates if Mr. Evans' testimony and the production of the requested documents at the hearing warrant additional hearing time. 2/ Finally, it does not appear that the case is so complicated that formal pre-hearing discovery is necessary to avoid a protracted hearing. Accordingly, the Complainant's Motion is denied.

Dated at Racine, Wisconsin this 7th day of November, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Daniel Nielsen /s/  
Daniel Nielsen, Examiner

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1/ School District of West Allis-West Milwaukee, Dec. No. 20922-C (Schiavoni, 2/84).

2/ Green Bay Joint School District No. 1, Dec. No. 10722-A (WERC, 2/72).