

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

**WISCONSIN LAW ENFORCEMENT ASSOCIATION, BRIAN SWITALA
and EDWARD GOTO, Complainants,**

vs.

**STATE OF WISCONSIN
(UNIVERSITY OF WISCONSIN-MILWAUKEE), Respondent.**

Case 5
No. 65004
PP(S)-357

Decision No. 31527-B

Appearances:

David Vergeront, Chief Legal Counsel, Department of Administration, Office of State Employment Relations, P.O. Box 7855, Madison, Wisconsin 53707-7855, appearing on behalf of the State of Wisconsin.

Sally A. Stix, Law Offices of Sally A. Stix, 700 Rayovac Drive, Suite 117, Madison, Wisconsin 53711, appearing on behalf of the Wisconsin Law Enforcement Association, Brian Switala, and Edward Goto.

ORDER ON REVIEW OF EXAMINER'S DECISION

On October 18, 2007, Examiner Daniel J. Nielsen issued Findings of Fact, Conclusion of Law, and Order Dismissing Complaint in the above-captioned matter, holding that the State of Wisconsin (University of Wisconsin-Milwaukee) (State) did not violate Secs. 111.84 (1) (c) or (a), Stats., by the manner in which the State handled Brian Switala's and Edward Goto's rights to representation during investigatory interviews, or by scheduling an investigatory interview for Switala in March 2005.

On November 6, 2007, WLEA, Switala, and Goto filed a timely petition with the Wisconsin Employment Relations Commission (Commission) seeking review of certain portions of the Examiner's decision pursuant to Secs. 111.07(5) and 111.84(4), Stats. Thereafter the parties filed written argument in support of their respective positions, the last of which was received on January 4, 2008.

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For the reasons set forth in the Memorandum accompanying this Order, the Commission affirms all but one of the Examiner's Findings of Fact and affirms all but one of the Examiner's Conclusions of Law. Contrary to the Examiner, the Commission concludes that the State violated Switala's right to representation (and thus, Sec. 111.84(1)(a), Stats.) as that right existed pursuant to the terms of a collective bargaining agreement in effect at that time. However, under the unique circumstances of this case, the Commission finds that this violation was highly technical, is unlikely to be repeated, and does not warrant a remedy.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following

ORDER

- A. The Examiner's Findings of Fact 1 through 30 are affirmed.
- B. The Examiner's Finding of Fact 31 is reversed and the following Finding of Fact 31 is made:
 - 31. By offering to have Stan Yasaitis represent Brian Switala in the investigatory interview on March 3, 2005, but not in his capacity as a WSEU steward, UWM acted in a manner inconsistent with the terms of the collective bargaining agreement between the State and WSEU, which was in effect at the time pursuant to an extension agreement.
- C. The Examiner's Findings of Fact 32 through 37 are affirmed.
- D. The Examiner's Conclusions of Law 1 through 3 are affirmed.
- E. The Examiner's Conclusions of Law 4 and 5 are set aside and the following Conclusions of Law are made:
 - 4. By refusing to allow Brian Switala to be represented by Stan Yasaitis in his capacity as a WSEU steward at the investigatory interview on March 3, 2005, the State (UWM) interfered with Switala's right to engage in lawful, concerted activity within the meaning of Sec. 111.82, Stats., in violation of Sec. 111.84(1)(a), Stats.
 - 5. By scheduling Switala for an investigatory interview in March 2005, the State (UWM) did not discriminate against Switala in the exercise of his rights to engage in lawful, concerted activity within the meaning of Sec. 111.82, Stats., and did not violate Sec. 111.84(1)(c) or (a), Stats.

6. By scheduling Inspector Ann Maxson as the steward for an investigatory interview with Edward Goto on July 28, 2008, the State (UWM) did not interfere with Goto's right to engage in lawful, concerted activity within the meaning of Sec. 111.82, Stats., and did not violate Sec. 111.84 (1) (a), Stats.
7. By scheduling Inspector Ann Maxson as the steward for an investigatory interview with Edward Goto on July 28, 2008, the State (UWM) did not circumvent WLEA's internal structure of operations and did not violate Sec. 111.84 (1)(c) or (a), Stats.

F. The Examiner's Order dismissing the complaint is affirmed except as to the violation found in Conclusion of Law 4, above. In view of the highly technical nature of that violation, no remedial relief is necessary in order to effectuate the purposes of the State Employment Labor Relation Act.

Given under our hands and seal at the City of Madison, Wisconsin, this 12th day of February, 2008.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

STATE OF WISCONSIN
(UNIVERSITY OF WISCONSIN-MILWAUKEE)

MEMORANDUM ACCOMPANYING ORDER
ON REVIEW OF EXAMINER'S DECISION

Summary of the Facts

As indicated in the Order, above, the Commission has affirmed all of the Examiner's Findings of Fact, except for the one setting forth the State's obligations regarding investigatory interviews as those obligations existed on March 3, 2005. The facts that are most pertinent to the issues on review are summarized as follows.

Brian Switala and Edward Goto are both employed as police officers at UWM. As such, they are members of the statutory law enforcement (LE) bargaining unit that also includes, *inter alia*, the State Patrol. See Sec. 111.825 (1) (cm), Stats. For many years, the LE bargaining unit had been represented by the Wisconsin State Employees Union (WSEU). At the time the instant case arose, the most recent collective bargaining agreement between the WSEU and the State was for the term May 17, 2003 to June 30, 2003, but had been extended by mutual written agreement for a period of time that included March 3, 2005.¹ That agreement included provisions governing how representation would be provided to bargaining unit members for purposes of "investigatory interviews," i.e., interviews in which employees are called in for questioning by supervisors about incidents that may lead to discipline. According to the contract, employees were entitled to be accompanied during such interviews by an available designated steward from a list supplied by WSEU. On March 3, 2005, Stan Yasaitis was one of those designated WSEU stewards.

In October 2004, the Wisconsin Law Enforcement Association (WLEA) filed a petition with the Commission seeking to represent the LE bargaining unit. Beginning on February 4, 2005, the Commission conducted a mail ballot election, in which employees could choose the WSEU, the WLEA, or no union, for purposes of collective bargaining. The votes were counted at the Commission's offices on February 25, 2005, and the result was that WLEA prevailed. On February 28, 2005, WSEU advised the State in writing that, effective immediately, WSEU disclaimed further interest in representing the law enforcement unit and that the contract between WSEU and the State "should be considered null and void." On March 1, 2005, the WSEU's notice was disseminated to all state agencies employing members

¹ See STATE OF WISCONSIN (WLEA AND MAEDER), DEC. NO. 31397-C (WERC, 6/07), at 10. According to the stipulated facts in that case, the extension agreement was automatically continued unless either party gave 30 days written notice of an intent to terminate. WSEU's disclaimer letter (held unlawful and ineffective in that decision) was dated February 28, 2005 and, accordingly, by the terms of the extension agreement, could not have taken effect by the date of Switala's investigatory interview on March 3, 2005. However, viewing the situation as the Examiner did, i.e., a hiatus between contracts during which the status quo must be maintained regarding mandatory subjects of bargaining, yields the same result. Viewed either way, Switala's right to representation was subject to the provisions of the WSEU contract.

of the law enforcement bargaining unit, including UWM. On March 10, 2005, the Commission certified the results of the election, designating WLEA the exclusive bargaining representative for the LE unit.

On March 3, 2005, Switala was summoned to an investigatory interview that had been scheduled the previous week. Switala had notified both WSEU steward Yasaitis and WLEA President Glen Jones about the scheduled interview and requested their presence. At the designated interview time, Yasaitis was present but Jones had not arrived. UWM informed Yasaitis that no union representatives would be permitted to accompany Switala to the interview. When Yasaitis questioned this directive, the officials explained that, to the best of their understanding, the employees at that time were not represented by any union, since WSEU had withdrawn its representation and no new union had been certified. Yasaitis argued that employees have a statutory right to representation regardless of union status. UWM then agreed that, because Yasaitis also happened to be a licensed attorney, he could participate in the interview as Switala's personal representative, but not as a union representative. Switala declined Yasaitis' representation in that capacity and requested that UWM delay the interview a short time until Jones could get there. UWM refused to wait because management officials had not heard of Jones, did not know what his status was, and, to the extent he was affiliated with WLEA, they believed that WLEA had no representational status at that time. The interview proceeded without Switala having a representative present. After the interview, Switala received a letter of reprimand about the underlying incident, which he did not contest.

In March, 2005, shortly after the Commission certified the election results, Glen Jones, President of WLEA, met with Jill Thomas, OSER's designated spokesperson for negotiating with the LE bargaining unit, and discussed, among other things, that stewards from the State Patrol portion of the bargaining unit could be used for the other, smaller, segments of the bargaining unit, including UWM, until stewards were named for those groups. On March 26, the WLEA organized itself internally into three locals: Local 1 (State Patrol), Local 2 (University and State Capitol Police), and Local 3 (DOT Customer Service Representatives). Glen Jones remained President of WLEA and was also elected President of Local 1 and Mike Sacco, a police officer at UW-Whitewater, was elected President of Local 2.

On June 21, Jones sent an e-mail to State agencies, forwarding a list of the officers and stewards for Local 1. The cover message said:

Here is the Local 1 Officer and Steward listings. We are in the process of developing stewards for the other two Locals now, but we have no objections to the State Patrol stewards being used to assist the other agencies. We also anticipate developing more Local 1 stewards once the training is held.

I believe UW stewards requests are already going through Local 2 President Mike Sacco.

OSER forwarded Jones' list of stewards to the campuses, with instructions that they should go through Jones and the State Patrol to secure stewards. The "cover" e-mail itself was not forwarded to UWM officials, nor were they otherwise informed about Jones' comment that he believed UW steward requests were going through Mike Sacco.

Sacco contacted UWM's Labor Relations Coordinator, Shannon Bradbury, in early July to introduce himself, to let her know that Switala would be on the WLEA bargaining team, and to ask her to help smooth the process for releasing Switala for bargaining duty when necessary. Sacco also supplied contact information for himself. However, as the Examiner found, Sacco did not clearly specify that all steward requests for UWM police should go through him and Bradbury did not have that understanding.²

On July 28, 2005, UWM police officer Edward Goto participated in a pre-disciplinary interview. A couple weeks earlier, when the interview was being scheduled, Goto's supervisor had asked Goto if he wanted a steward at the meeting and Goto had requested either Sacco or Jim Heller. The supervisor replied, "Sorry, Ed you are not entitled to choose a representative. I need to contact State Patrol District #2. They will assign representation for you." UWM thereafter arranged with State Patrol officials for assignment of a steward from the Local 1 list, and State Patrol Inspector Anne Maxson was assigned to and did represent Goto at the pre-disciplinary conference.

On August 1, after some strongly worded e-mails at the end of July between Sacco and Bradbury about how Local 1 steward requests were being handled, various OSER and other management officials met and agreed that henceforth all messages informing employees of upcoming investigatory interviews would be copied to Sacco and Switala, among others. In February 2006, Sacco distributed a list of Local 2 stewards for University and Capitol Police investigations and grievances.

In the meantime, the WLEA had filed an unfair labor practice complaint against both WSEU and the State, contending, *inter alia*, that WSEU had violated the law by disclaiming interest in representing the LE unit in March 2005 and dropping all pending grievances, and that the State had violated the law by treating all pending grievances as dropped. On June 8, 2007, the Commission issued its decision in that matter – a case of first impression – holding that, as a matter of law, WSEU remained the bargaining representative for the LE unit until June 30, 2005, at which time WLEA assumed those responsibilities. STATE OF WISCONSIN (WLEA AND MAEDER), DEC. NO. 31367 -C (WERC, 6/07) ("MAEDER").

²The Examiner acknowledged Sacco's testimony that, during this conversation and perhaps others, he had directly informed UWM that steward requests should go through him as President of Local 2. However, the Examiner concluded that, "On review of the record as a whole, ... Sacco's recollection that he had such direct discussions is faulty." The Union has not challenged the Examiner's conclusion in this regard, and we find both the conclusion and the Examiner's explanation persuasive and correct.

The Examiner's Decision and the Issues on Review

There were three issues before the Examiner. First, as to the Switala interview on March 3, 2005, the Examiner concluded that the State complied with the existing contractual requirements by offering to allow Yasaitis, a steward from the list of designated WSEU stewards, to represent Switala. In the Examiner's view, since the situation was not a step in the grievance procedure, the State's refusal to allow Yasaitis to be designated a "union" representative, but only an "attorney," did not "carry with it some substantive limitation on his ability to assist Switala, or some actual effect on Switala's rights." Examiner's Decision at 15. To the extent the State was refusing to acknowledge WSEU's role as collective bargaining representative by insisting upon the "attorney" designation for Yasaitis, the Examiner noted that WSEU, not Switala or WLEA, would have been the proper party to raise that issue but had not done so. ID. at 15 n. 2.

WLEA has challenged the Examiner's conclusion on this first issue, arguing that Switala's right, as set forth in the WSEU contract language that applied at the time, was to a union representative and that the State thus violated the law by treating him as "unrepresented." The State responds that labeling Yasaitis an "attorney" rather than a "steward" is a distinction without a difference, since he would be fulfilling exactly the same role, with exactly the same skill, either way. The State also notes that, at the time, UWM officials had been notified that WSEU would no longer be representing the bargaining unit and that WLEA had not been certified as the representative. They sincerely believed that Switala was unrepresented and tried nonetheless, consistent with that understanding, to respect his right to representation.

The second issue that the Examiner decided was whether the State (UWM) had bypassed the agreed-upon protocols in selecting a steward (Ann Maxson) from the list of State Patrol (Local 1) stewards that Jones had supplied to the State on June 21, 2005, for the Goto pre-disciplinary meeting on July 28, 2005. On this issue the Examiner found that, contrary to the WLEA's argument, it had not clearly notified UWM that it should route all steward requests through Sacco, the president of Local 2. Accordingly, the State (UWM) did not violate the law. The WLEA challenges the Examiner's conclusion on this issue, but veers away from the argument that had been presented to the Examiner. WLEA now argues that UWM should have conferred with Jones (WLEA president), if not Sacco, before simply selecting a steward for Goto. The State does not directly respond to this argument, focusing instead on whether Sacco should have been notified. The State's position regarding WLEA's argument on review, therefore, is rather opaque. The State does appear to assert that Jones was the appropriate conduit, rather than Sacco, but also may implicitly be arguing that UWM had complied with that protocol by using the list of stewards that Jones had circulated.

The third issue that the Examiner decided was whether UWM had retaliated against Switala for his support of the WLEA during the election campaign, by calling him in for pre-disciplinary investigatory interviews. The Examiner concluded that this allegation was not borne out by the evidence and that the State (UWM) had not, therefore, violated

Sec. 111.84(1)(c), Stats. The Examiner's principal basis was that he found virtually no evidence that the State's actions were motivated by animus towards Switala's WLEA activity. The Union has not sought review of the Examiner's conclusion on this issue, and we affirm it, for the reasons set forth in the Examiner's decision.

DISCUSSION

A. The Switala Interview

The Examiner succinctly set forth the fundamental legal elements of a represented State employee's right to representation in investigatory interviews:

As part of their right to engage in concerted activities for mutual aid and protection, employees have a right to the assistance of a union representative in investigatory interviews, when they have a reasonable belief that the interview may lead to discipline. The right is not self-triggering – it arises upon request. Further, the right may be shaped and qualified by the terms of a collective bargaining agreement. The contract between the State of Wisconsin and the [WSEU] contains just such qualifications, at Article IV, wherein it provides a contractual right to such representation, and specifies that the choice of union representative shall be made from a list of grievance representatives who are members of the bargaining unit.

Examiner's Decision at 14, citing WSEU v. WERC, DEC. NO. 26739-C (DANE CO. CIR. CT., 4/22/93), and cases cited therein. See also, STATE OF WISCONSIN (CANTWELL), DEC. NO. 15716-C (WERC, 10/79); WAUKESHA COUNTY, DEC. NO. 14662-A (Gratz, 1/78), AFF'D BY OPERATION OF LAW, DEC. NO. 14662-B (WERC, 3/78). This right is also commonly known as the "Weingarten right," after the U. S. Supreme Court decision establishing the right under the National Labor Relations Act. NLRB v. WEINGARTEN, INC. 420 U.S. 251 (1975).

Here, as the Examiner noted, WSEU remained the collective bargaining representative for the LE unit at the time of Switala's March 3, 2005 interview, as a matter of law, despite WSEU's unlawful attempt to withdraw as that representative following its election loss to WLEA. MAEDER, *supra*. The Examiner correctly held that Switala's right to representation was delimited by the collective bargaining agreement between WSEU and the State – i.e., Switala had a right to be accompanied by an available WSEU steward from a list of designated stewards. Yasaitis was one of those designated stewards. However, even though UWM officials erroneously asserted at the time that Switala was not represented by any union and would not allow Yasaitis to be present as a "union" representative, the Examiner concluded that the UWM had "inadvertently" complied with Switala's rights by permitting Yasaitis – in fact a union steward regardless of label – to represent Switala. The Examiner perceived no "substantive limitation" or "actual effect" on Switala's rights from the label that UWM attached to Yasaitis, since the situation "was not a grievance filing or a step in the grievance procedure," situations where the lack of a "union label" might have limited Yasaitis' ability to protect Switala's rights.

Unquestionably, UWM faced a predicament at the time Switala requested representation on March 3, 2005. With one union (WSEU) having just disclaimed its representational status, and the other union (WLEA) having not yet been certified as the representative, it is understandable that UWM would have concluded that Switala, like other LE unit members, was unrepresented. That this conclusion was wrong did not become clear until two years later, when the Commission decided in a case of first impression that WSEU's disclaimer was unlawful and ineffective. In the meantime, a Commission examiner had wrestled with that issue and reached a different conclusion, reflecting the difficulty of deciphering the legalities of UWM's predicament on March 3. UWM's attempt to compromise by accepting Yasaitis' presence as an attorney but not as a union representative was a good faith response to the situation.

Nonetheless, unlawful interference within the scope of Sec. 111.84(1)(a), Stats., does not depend upon the employer's state of mind, and it is immaterial whether or not UWM believed it was acting lawfully or otherwise acted in good faith. STATE OF WISCONSIN, DEC. NO. 31272-B (WERC, 9/07). Switala had a right to WSEU representation, as such, on March 3, 2005, pursuant to the contractual protocols that were in place as a matter of law. UWM could not lawfully restrict, withhold, or limit that right. We are particularly reluctant to sanction an employer's refusal to acknowledge the union status of a representative in favor of another status that the employer finds more comfortable – in this case, “attorney.”³

Accordingly, we conclude, contrary to the Examiner, that Switala was entitled to have Yasaitis present at the investigatory interview as a “union” representative, as such. By denying Switala that right, the State violated Sec. 111.84(1)(a), Stats.

The normal remedy for this violation (at least under the circumstances present here) would be to order the State to cease and desist from denying employees their Weingarten rights and to post a notice to employees for thirty days. Here, however, the violation is highly technical. Now that MAEDER has been decided, the confusion that followed WLEA's victory over WSEU in the 2005 election is unlikely to reoccur, as MAEDER prevents an “interregnum” between unions in that situation. We are confident that the State will comply with its employees' rights, as now clarified, should a challenging union again prevail in an election. Therefore, we see no need for a cease-and-desist order or a posting of a notice and withhold such remedial relief.

³ The Examiner noted that WSEU may have had standing to complain about the State's refusal to recognize Yasaitis as a union representative, but did not reach that question since “WLEA has no standing to raise that issue, and the WSEU is not a party to this case.” Examiner's decision at 15 n. 2. This is true as far as it goes, but we conclude that Switala's individual right, as delimited by the WSEU contract, was to have a WSEU (union) representative, fully recognized as such. It is noteworthy, though not pivotal, that Switala viewed the status issue as sufficiently important that he refused to proceed with Yasaitis present unless his union status was recognized. We conclude that Switala has standing to claim that his Weingarten rights, as delimited in the contract, included UWM's recognition of his representative as a union representative.

B. The Goto interview

Before the Examiner, WLEA took the position that, prior to Goto's investigatory interview on July 28, 2005, the State (and UWM) had been notified that requests for stewards to represent the UWM campus police were to be routed through Mike Sacco, President of Local 1, which included those employees. This was the claim set forth in the complaint, the amended complaints, WLEA's opening statement at the hearing, and their post-hearing briefs to the Examiner.⁴ The Examiner correctly viewed this issue as essentially factual, and employing an analysis in which we concur, concluded that WLEA had not, in fact, clearly notified the State or UWM that all steward requests were to be handled by Sacco. See Examiner's decision at 15-16.

The WLEA does not directly challenge the Examiner's decision regarding Sacco's role. Instead the WLEA changes course and focuses now upon the role that WLEA President Glen Jones allegedly should have played in obtaining stewards for the UWM police, including Goto. While still advancing the overarching claim that UWM bypassed the protocols WLEA had established for obtaining stewards and instead unilaterally selected a steward for Goto, WLEA argues that the State itself has acknowledged in its brief that the protocol was to go through Jones.

It is not clear on this record that either the State's Office of Employment Relations (OSER) or UWM officials understood that they were to go through Jones in every situation, or whether, instead, they took Jones' message of June 21, with its list of designated State Patrol stewards, as his authorization to use those stewards for Local 1 situations as well as Local 2 (State Patrol) situations. While we agree generally with WLEA's contention that it was

⁴ WLEA's claim that the protocol was to go through Sacco is unambiguous in the complaints and WLEA's opening statement at the hearing. That contention remains central in WLEA's Initial Brief to the Examiner at pages 14-15. However, the brief bears a bit more ambiguity, in that it states, "In this case in March 2005, the State and WLEA representatives negotiated an interim procedure for disciplines, including management was to contact Glen Jones if stewards were needed for Local 2. That agreement was expanded by Sacco's discussions with Beier and Bradbury and Jones' June 21, 2005, e-mail, indicating Local 2 disciplines were already going through Sacco...." (WLEA's Initial Brief at 14-15) (references omitted). In context, the reference to contacting Glen Jones refers to the protocol temporarily established in March, 2005, which the WLEA appears to be arguing was supplanted by a new protocol (contacting Sacco) as of late June, 2005. Overall, the WLEA's main argument before the Examiner was that the State had unilaterally selected a steward for Goto, rather than having Sacco select a steward. The Examiner rejected this argument on the ground that the State reasonably could have construed Jones' June 21 e-mail as establishing a list of approved, designated stewards (from the State Police group) that management could use to represent other portions of the unit, including the UWM police. Accordingly, even if it was proper to raise this claim for the first time in a post-hearing brief, the slim reference to Jones in that brief to the examiner is not sufficient to have put the State on notice that this was WLEA's claim. Clearly the Examiner did not capture such a meaning, either, as is clear from his detailed description of WLEA's argument on this issue at pages 13-14 of his decision.

OSER's responsibility to make sure UWM officials understood the proper protocol,⁵ the record does not support WLEA's assertion about OSER's or UWM's understanding regarding Jones' role, at least after the June 21 message. The record and the arguments lack clarity at least partly because WLEA did not clearly advance its current claim regarding Jones' role (as opposed to Sacco's role) until the litigation before the Examiner had ended and the petition for review had been filed. "[N]otice of a claimed violation normally should precede the close of hearing as a matter of due process. RACINE UNIFIED SCHOOL DISTRICT, DEC. NO. 20941-B (WERC, 1/85); GENERAL ELECTRIC V. WERB, 3 WIS.2D 227, 243 (1958)." VILLAGE OF STURTEVANT, DEC. 30378-B (WERC, 11/03) at 18. As in STURTEVANT, it is "possible that [the Respondent] would have approached the evidence differently" had WLEA alleged that the State had bypassed Jones, rather than Sacco, and thereby violated the law. Accordingly, to the extent WLEA's contentions regarding the Goto interview are based upon assertions about Jones' role in the protocol, we dismiss that allegation for lack of notice and opportunity to litigate.

For the foregoing reasons, we hold that the State technically violated Switala's right to representation and thus interfered with his right to engage in lawful, concerted activity in violation of Sec. 111.84(1)(a), Stats., but conclude that this violation requires no remedial relief in this case. We affirm the Examiner's dismissal of all other allegations in the complaint.

Dated at Madison, Wisconsin, this 12th day of February, 2008.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Paul Gordon /s/

Paul Gordon, Commissioner

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

⁵ WLEA has challenged the Examiner's Finding of Fact 4 to the extent it states that labor relations matters at UWM are "relatively autonomous," arguing, correctly, that it is the State's duty to ensure that its agents are aware of their responsibilities in the collective bargaining area. Contrary to WLEA's argument, however, the Examiner's reference to UWM's "autonomy" does not undermine this principle, but merely indicates that, in practice, UWM handles much of its labor relations matters without minute by minute guidance from OSER and without utilizing OSER personnel.

