

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
HERMAN EDUCATION ASSOCIATION  
Involving Certain Employees of  
HERMAN SCHOOL DISTRICT

Case 12  
No. 72497  
ME-5018

DECISION NO. 34318-A

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**Appearances:**

Stephen Pieroni, Legal Counsel, Wisconsin Education Association Council, 33 Nob Hill Road, Madison, Wisconsin 53708-8003, appearing on behalf of the Herman Education Association.

John Mason, District Administrator, N6409 County Road P, Mayville, Wisconsin, 53050, appearing on behalf of the Herman School District.

**CERTIFICATION OF RESULTS OF ELECTION**

Pursuant to a Direction of Election previously issued by it in the above-entitled matter, the Wisconsin Employment Relations Commission conducted an election on December 19, 2013, pursuant to § 111.70(4)(d)3.b. Stats., to determine whether teachers employed by the Herman School District wanted to continue to be represented by the Herman Education Association.

On January 14, 2014, the parties were advised that 5 of 11 eligible employees had voted for continued representation. The Association then filed objections to the conduct of the election asserting, among other matters, that at least one employee was unable to vote due to busy telephone lines. The Commission provided the parties with information as to the voting effort of the individual in question and said individual subsequently provided the Commission with a sworn affidavit in that regard. The matter became ripe for action on April 7, 2014, when the Association advised the Commission that its objection was limited to alleged voting difficulty experienced by the one employee.

Having considered the matter, we certify the results of the election as follows:

|    |   |    |
|----|---|----|
| 1. | Number of eligible voters                       | 11 |
| 2. | Total votes cast                                | 5  |
| 3. | Votes cast for the Herman Education Association | 5  |
| 4. | Votes cast for no representation                | 0  |

NOW, THEREFORE, by virtue of and pursuant to the power vested in the Wisconsin Employment Relations Commission by § 111.70(4)(d)3.b., Stats.;

IT IS HEREBY CERTIFIED that at least fifty-one percent (51%) of the employees in the bargaining unit did not vote to continue to be represented by the Herman Education Association for the purposes of collective bargaining with the Herman School District.

If no collective bargaining agreement is in effect on the date of this Certification, the Herman Education Association is no longer entitled to exclusive representative status as the collective bargaining representative as of the date of this Certification. If a collective bargaining agreement is currently in effect, the Association loses its exclusive representative status for the purposes of collective bargaining as of the expiration of that agreement.

Further, the employees in the bargaining unit shall not be included in a substantially similar bargaining unit for at least a period of one year following the applicable date when representative status is lost.

Dated at Madison, Wisconsin, this 25th day of April 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner

**MEMORANDUM ACCOMPANYING CERTIFICATION OF RESULTS OF ELECTION**

This election was conducted telephonically. Voters could call a toll-free number at any time during a 20-calendar-day voting period ending December 19, 2014; and, when prompted, were able to vote after entering the first four letters of their last name and the last four numbers of their social security number on the telephone keypad. Employees having difficulty voting could access a help desk by calling a different toll-free number.

The affidavit provided by the employee is consistent with the information provided by the Commission to the parties. The employee attempted to vote several times but was unable to correctly enter the first four letters of the last name on the telephone keypad. As a consequence, she was unable to vote. While we regret her inability to cast her ballot, this telephone voting system has been successfully used by thousands of voters during the hundreds of certification elections we have conducted. Because we believe the voting system to be sound, we conclude that a voter's inability to navigate the system is not a sufficient basis for conducting a new election. Therefore, we have certified the election results based on the votes cast.

Dated at Madison, Wisconsin, this 25th day of April 2014.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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James R. Scott, Chairman

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Rodney G. Pasch, Commissioner