



STATE OF WISCONSIN

PERSONNEL COMMISSION

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 *
 AZAM NIROOMAND-RAD, *
 *
 Complainant, *
 *
 v. *
 *
 MEDICAL COLLEGE OF *
 WISCONSIN, INC., *
 *
 Respondent. *
 *
 Case No. 88-0044-PC-ER *
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 * * * * *

DECISION
 AND
 ORDER

This complaint, alleging discrimination on the basis of sex, race, color, and national origin and retaliation for engaging in protected activities, was filed on April 7, 1988.

The complaint was also filed with the Wisconsin Equal Rights Division as well as the Equal Employment Opportunity Commission. In a cover letter, complainant's counsel indicated uncertainty as to whether the Personnel Commission or the Equal Rights Division would take jurisdiction.

By letter dated April 11, 1988, the parties were provided an opportunity to file jurisdictional arguments.

Pursuant to §111.375(2), Stats., the Personnel Commission is to process complaints filed under the Fair Employment Act when filed against an agency of the state as an employer. Pursuant to §111.32(6)(a), Stats:

"[A]gency" means an office, department independent agency, authority, institution, association, society or other body in state government created or authorized to be created by the constitution or any law, including the legislative and the courts. [Emphasis added].

The legal status of the respondent Medical College of Wisconsin, Inc., was discussed in State ex rel. Warren v. Reuter, 44 Wis.2d 201, 170 N.W.2d 790 (1969). In Reuter, the supreme court upheld the constitutionality of an act appropriating funds to the Marquette School of Medicine (which in 1970 changed its name to Medical College of Wisconsin, Inc.) for medical education, teaching and research. The court found that the Marquette School of Medicine, Inc., was "a non-profit corporation organized pursuant to Ch. 181, Stats. It is a legal entity entirely separate from Marquette University." The court then went on to consider what governmental control and supervision was necessary to uphold an appropriation of public monies to a private corporation to accomplish specified public purposes.


State statutes 39.15, Stats. establish certain conditions for the release of funds to the respondent. However none of the conditions require the respondent to be treated as a state agency for the purpose of processing complaints of discrimination and/or retaliation under the Fair Employment Act.¹

¹ Section 39.15, Stats., does provide that "[s]tate affirmative action policies, rules and practices shall be applied to the Medical College of Wisconsin, Inc., consistent with their application to state agencies." The provision does not indicate that complaints of discrimination are to be processed under §111.375(2), Stats., rather than §111.375(1), Stats.

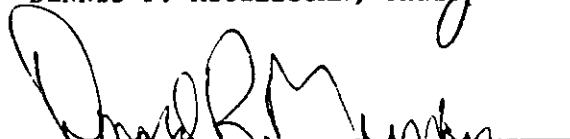
ORDER

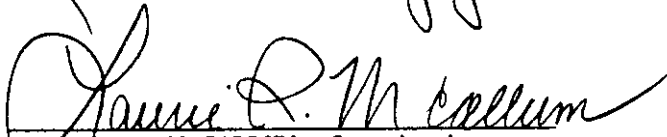
This matter is dismissed due to lack of jurisdiction.

Dated: May 5, 1988 STATE PERSONNEL COMMISSION


DENNIS P. MCGILLIGAN, Chairperson

KMS:akw
VIC01/2


DONALD R. MURPHY, Commissioner


LAURIE R. MCCALLUM, Commissioner

Parties:

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