

**STATE OF MICHIGAN  
EMPLOYMENT RELATIONS COMMISSION  
LABOR RELATIONS DIVISION**

In the Matter of:

CHRISTIAN BROTHERS INSTITUTE OF MICHIGAN,  
D/B/A BROTHER RICE HIGH SCHOOL,  
Employer,

Case No. R03 E-88

-and-

MICHIGAN EDUCATION ASSOCIATION,  
Petitioner - Labor Organization.

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APPEARANCES:

Clark Hill, P.L.C., by William A. Moore, Esq., for the Employer

White, Schneider, Young & Chiodini, P.C., by William F. Young, Esq., and Timothy J. Dlugos, Esq., for the Petitioner

**DECISION AND ORDER ON MOTION FOR REOPENING OF THE RECORD AND  
RECONSIDERATION AND MOTION FOR STAY OF ELECTION**

On May 26, 2004, we issued our Decision and Direction of Election in the above case directing a representation election in a proposed bargaining unit consisting of:

All full-time and part-time teachers, including teacher/department heads, employed by Christian Brothers Institute of Michigan, d/b/a Brother Rice High School, but excluding administrators, supervisors, confidential employees and all other employees.

Christian Brothers Institute of Michigan, d/b/a Brother Rice High School (Employer) filed a timely motion for reopening of the record and reconsideration of that Decision on June 11, 2004. The Employer also filed a motion to stay the election pending our decision. The Petitioner filed a timely response in opposition to the motions on June 23, 2004.

In its motion for reopening of the record and reconsideration, the Employer contends that we should reopen the record to consider a document attached to the motion as Exhibit 1 and

other evidence. The Employer also contends that we erred in finding that the Commission has jurisdiction over religious schools pursuant to the Labor Relations and Mediation Act (LMA) 1939 PA 176, as amended, MCL 423.1- 423.30 and that we erred in finding that the exercise of jurisdiction does not violate the Free Exercise and Establishment Clauses of the Michigan and U.S. Constitutions.

Rule 167 of the Commission's General Rules, 2002 AACRS, R 423.167 governs motions for reconsideration and states in pertinent part:

Generally, and without restricting the discretion of the commission, a motion for reconsideration which merely presents the same issues ruled on by the commission, either expressly or by reasonable implication, will not be granted.

With the exception of its assertion that a successful vote for Petitioner will result in the withdrawal of students and monetary support for the School, the Employer's arguments in support of the motion for reopening of the record and reconsideration do not differ significantly from the arguments made in its post-hearing brief. Exhibit 1 is one of two documents that the Employer sought to have us consider with its post-hearing brief. When we denied the Employer's request to admit these documents, we pointed out that we would not consider evidence offered after the close of the hearing in the absence of a motion to reopen the record. We also explained that even if the Employer had filed such a motion, we would not consider either document because they do not meet the standards for reopening the record set by Rule 166 of the Commission's General Rules, 2002 AACRS, R 423.166; neither Exhibit 1 nor the other document attached to the Employer's post-hearing brief, "if adduced and credited, would require a different result."

The single new issue raised by the Employer's motion for reopening of the record and reconsideration is its assertion that it will lose students and financial support if Petitioner is selected to represent the proposed bargaining unit. Like Exhibit 1, neither this assertion nor the supporting affidavit of Edward Kowalchick have any bearing on the issue of whether the Commission has jurisdiction to order an election at Brother Rice High School. Accordingly, there is no basis to reopen the record.

The Employer's arguments regarding our exercise of jurisdiction under the LMA and the Free Exercise and Establishment Clauses of the Michigan and U.S. Constitutions essentially restate the same arguments that the Employer presented in its post-hearing brief. Those arguments were carefully considered and discussed in our May 26, 2004 Decision and Direction of Election. Therefore, the Employer has not set forth grounds for reconsideration. See *Wayne County Community College*, 2003 MERC Lab Op\_\_\_\_\_, (Case Nos. C00 K-197 & C01 A-3, decided October 8, 2003); *City of Detroit Water and Sewerage Dep't*, 1997 MERC Lab Op 453. See also *Riverview Community Schs*, 2004 MERC Lab Op \_\_\_\_\_, (Case No. UC99 J-038, decided February 24, 2004).

Since we have made a final decision on the Employer's motion for reopening of the record and reconsideration, the Employer's motion for stay of election is moot.

**ORDER**

The motion for reopening of the record and reconsideration is denied, and accordingly, the motion for stay of election is denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION

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Nora Lynch, Commission Chairman

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Harry W. Bishop, Commission Member

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Maris Stella Swift, Commission Member

Dated: \_\_\_\_\_