

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

In the Matter of:

REGENTS OF THE UNIVERSITY OF MICHIGAN,
Public Employer,

MERC Case No. 21-C-0630-RC

-and-

UNIVERSITY OF MICHIGAN PROFESSIONAL
NURSE COUNCIL, INDEPENDENT UNION,
Petitioner-Labor Organization

-and-

MICHIGAN NURSES ASSOCIATION and its
UNIVERSITY OF MICHIGAN PROFESSIONAL NURSE COUNCIL,
Incumbent-Labor Organization

APPEARANCES:

David J. Masson, University of Michigan, Senior Associate General Counsel,
for the Public Employer

Miller Cohen, PLC, by Robert D. Fetter, for the Petitioner Union

Andrew Smith, MNA General Counsel and Nickelhoff & Widick, PLLC,
by Andrew Nickelhoff, for the Incumbent Union

**DECISION AND ORDER DENYING MOTION FOR
RECONSIDERATION AND STAY OF THE ELECTION**

On July 13, 2021, this Commission issued a Decision and Direction of Election based on the representation petition filed by the University of Michigan Professional Nurse Council, Independent Union (UMPNC, Independent Union). The next day, Michigan Nurses Association and its University of Michigan Professional Nurse Council (Incumbent Union or MNA), filed a Motion for Reconsideration and Request for Stay of the election along with a brief in support of the motion and request. On July 23, 2021, the Petitioner Union filed a response to the reconsideration request. On August 4, 2021, the MNA filed a Supplemental Brief in support of its Motion, and on August 9 it filed an Errata and attachment to same. The Employer did not file a response.

Motions for Reconsideration of a Decision and Order issued by this Commission are governed by Rule 167 of the Commission's General Rules, 2002 AACRS, R 423.167, which states in pertinent part:

A motion for reconsideration shall state with particularity the material error claimed. . . . 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.

Additionally, this Commission has stated that in accord with Rule 146, “[an] ...election... shall proceed unless and until a stay is issued by the Court of Appeals.” *Garden City Public Schools*, 20 MPER 14 (2007); *Chippewa County*, 19 MPER 27 (2006).

Specifically, Rule 146(5) provides:

If a motion for reconsideration or rehearing of a commission order directing an election is filed, then the commission, during its consideration of the motion, shall conduct the election under its original direction, count the ballots, and issue a certification of results or representation unless a party makes a written request to stay the election or impound the ballots, or both, and the commission determines that it would not effectuate the purpose of the statute to conduct an election or count the ballots, or both, while the motion is pending. (Emphasis added).

In its Motion for Reconsideration, the Incumbent Union challenges the Commission's order primarily based on its disagreement with the Bureau Director's administrative determination as to the adequacy of the show of interest used to support the underlying representation petition. Specifically, the Incumbent Union alleges that the “show” was flawed because it did not clearly identify the petitioning labor organization as an independent union, and that this failure led to confusion among unit members signing the show of interest documents. The Incumbent Union asserts that the alleged confusion was caused by the use of the UMPNC name by both itself and the Petitioner. The motion also challenges the administrative determination that the inclusion of the words “Independent Union” as part of Petitioner's name on the representation petition did not render the showing of interest insufficient to support the petition. All of the foregoing assertions, along with the others contained in the motion and supporting briefs, merely restate the same or similar issues already addressed by this Commission in our Decision and Direction of Election. Furthermore, it is not within the authority of the Commission to review the administrative determinations reached by Director McBride concerning the show of interest. See *City of Detroit*, 32 MPER 35 (2019). *Taylor School District*, 30 MPER 75 (2017).

For the foregoing reasons, we find that the Incumbent Union has failed to provide sufficient grounds for reconsideration of, or to “stay”, our Decision and Direction of Election. See *AFSCME*

*Council 25, Local 2394, 28 MPER 41 (2014) and City of Detroit Water & Sewerage Dep't, 1997
MERC Lab Op 453.*


ORDER

The Motion for Reconsideration and Request for Stay of the election are denied.

MICHIGAN EMPLOYMENT RELATIONS COMMISSION



Tinamarie Pappas, Commission Chair



William F. Young, Commission Member

Issued: August 10, 2021