

**BEFORE THE SECRETARY OF HUMAN RESOURCES
OF THE STATE OF KANSAS**

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| MAIZE TEACHERS ASSOCIATION, |) | |
| |) | |
| Petitioner, |) | Professional Negotiations Act: |
| |) | Petition for Unit Clarification |
| v. |) | and Amendment |
| |) | |
| BOARD OF EDUCATION OF |) | Case No. 72-UCA-1-2001 |
| UNIFIED SCHOOL DISTRICT NO. 266, |) | |
| Maize, Kansas |) | |
| |) | |
| <u>Respondent.</u> |) | |

**ORDER DENYING RECONSIDERATION
OF FINAL ORDER**

NOW ON this 21st day of August, 2001, the above entitled matter comes on before the Secretary's Designee on Respondent's *Petition for Reconsideration of Final Order* filed on July 31, 2001.

The presiding officers' initial order was issued in this case on June 29, 2001. The presiding officer ruled that school nurses are professional employees, as that term is defined in K.S.A. 72-5413, and should be included in the bargaining unit with teachers.

Respondent timely filed a *Petition for Review of Initial Order* on July 11, 2001. An order declining review was entered on July 16, 2001.

Respondent offers no new argument in support of his alleged error that the Hearing Officer erred in determining nurses are "professional employees" under the Professional Negotiations Act. I agree with the presiding officer that the statute in question is not ambiguous, and therefore its plain reading must be given effect. Furthermore, I do not find the legislative history so compelling so as

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to depart from the rules of statutory construction.

Respondent does offer additional argument that the nurses lack the necessary commonality of interest because their terms and conditions of employment differ from those of the teachers' bargaining unit. After reviewing the Initial Order, I determine that the Hearing Officer's determination that although there could be a greater commonality or community of interest between the two positions, there is nevertheless a sufficient community of interest between the nurses and teachers to make the inclusion of both within the same unit an appropriate exercise of the Secretary's discretion, to be well supported in law and in fact. Reconsideration is therefore denied.

IT IS THEREFORE ORDERED, that Respondent's Petition for Reconsideration should be and the same is hereby denied.


A. J. Kotich - Secretary's Designee

Notice of Right to Petition for Judicial Review

You are hereby advised that this *Order Denying Reconsideration of Final Order* is a final order of the Kansas Department of Human Resources (KDHR). A petition for judicial review of the agency action in this case will not be considered timely unless it is filed in the district court within thirty, (30), days from the date of this order.

Any party seeking review is instructed to serve KDHR with notice of any petition for judicial review by sending or delivering a copy of the petition to:

A. J. Kotich, Chief Counsel

KDHR - Legal Services
401 SW Topeka Blvd.
Topeka, Kansas 66603-3182

Certificate of Service

I, the undersigned, do hereby certify that I served a true and correct copy of the above and foregoing *Order Denying Reconsideration of Final Order*, upon the following, to-wit;

David Cunningham, Counsel
Kansas Association of School Boards
1420 SW Arrowhead Road
Topeka, Kansas 66044-4024
Attorney for Respondent

Marjorie A. Blaufus, Counsel
Kansas - National Education Association
715 SW Tenth Ave
Topeka, Kansas 66612-1686
Attorney for Petitioner

on this 21st day of August, 2001.


Glenn Griffith #10298
Deputy Chief Counsel