

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

In the Matter of the Petitions of	:	Case III No. 8597 ME-7
Various Labor Organizations	:	Case VII No. 8638 ME-23
Involving Employees of the	:	Case VIII No. 8642 ME-24
CITY OF MILWAUKEE, Employed	:	Case IX No. 8643 ME-25
in the HEALTH DEPARTMENT	:	Case XI No. 8646 ME-28
	:	Decision No. 6252

DIRECTION OF ELECTIONS

Various labor organizations having petitioned the Wisconsin Employment Relations Board to conduct elections, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of the City of Milwaukee employed in the Health Department, and a hearing on said petitions having been conducted on May 7 and 11, 1962 at the City Hall, Milwaukee, Wisconsin, the full Board being present; and the Board having considered the evidence and the petitions and arguments of the various parties and their representatives and being satisfied that questions have arisen concerning the appropriate collective bargaining units and concerning the representation for certain employees employed in said Health Department;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Board within one hundred and twenty (120) days from the date of this Directive in the following separate voting groups:

No. 6252

VOTING GROUP A -- Bureau of Environmental Sanitation

All regular employees having the classifications of:

Clerk Steno. III, II	Food Inspector II, I
Clerk Typist II, I	Dairy Inspector II, I
Sanitary Inspector II, I	Weights & Measures Insp.
Custodial Worker II	City Laborer (Regular)

employed in the Bureau of Environmental Sanitation in the Health Department of the City of Milwaukee, excluding all other employees, confidential employees, supervisors and executives, who were employed by the City of Milwaukee on February 19, 1964, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of all the employees eligible desire to constitute themselves a collective bargaining unit separate and apart from all other employees of the City of Milwaukee; and further, whether a majority of the eligible employees voting desire to be represented by Milwaukee District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO (and its appropriate locals), for the purpose of conferences and negotiations with the City of Milwaukee on questions of wages, hours and conditions of employment.

VOTING GROUP B -- Bureau of Public Health Nursing

All regular employees having the classifications of

Public Health Nurse I
Junior Public Health Nurse
Graduate Nurse I

employed in the Bureau of Public Health Nursing in the Health Department of the City of Milwaukee, excluding all other employees, confidential employees, supervisors and executives, who were employed by the City of Milwaukee on February 19, 1964, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of all the employees eligible desire to constitute

themselves a collective bargaining unit separate and apart from the remaining nurse classifications employed in the Health Department and all other employes of the City of Milwaukee; and further, whether a majority of the eligible employes voting desire to be represented by Staff Nurses Council of the Milwaukee Health Department, or by Milwaukee District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO (and its appropriate locals), or no organization, for the purpose of conferences and negotiations with the City of Milwaukee on questions of wages, hours and conditions of employment.

VOTING GROUP C -- Scientific Personnel

All regular employes having the classifications of

Chemist III, II	Bacteriologist II, I
Virologist III, I	Chemical Lab Technician
Medical Lab Technician	

employed in the Bureau of Laboratories in the Health Department of the City of Milwaukee, excluding all other employes, confidential employes, supervisors and executives, who were employed by the City of Milwaukee on February 19, 1964, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of all the employes eligible desire to constitute themselves a collective bargaining unit separate and apart from the remaining classifications in the Bureau of Laboratories and all other employes of the City of Milwaukee; and further, whether a majority of the eligible employes voting desire to be represented by the Association of Scientific Personnel for the purpose of conferences and negotiations with the City of Milwaukee on questions of wages, hours and conditions of employment.

VOTING GROUP D
Physicians, Dentists and Dental Hygienists

All regular employees having the classifications of

Public Health Physician I
Public Health Physician I ($\frac{1}{2}$ time)
Physician I
Physician I ($\frac{1}{2}$ time)
Dentist I
Dental Hygienist ($\frac{3}{4}$ time)

employed in the Health Department of the City of Milwaukee, excluding all other employees, confidential employees, supervisors and executives, who were employed by the City of Milwaukee on February 19, 1964, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of the eligible employees voting desire to be represented by the Association of Physicians and Dentists for the purpose of conferences and negotiations with the City of Milwaukee on questions of wages, hours and conditions of employment.

VOTING GROUP E -- Building and Grounds

All regular employees having the classifications of

Fireman
Maintenance Mechanic
Custodial Worker III, II, I

employed in the Division of Building and Grounds of the Bureau of Administration in the Health Department of the City of Milwaukee, excluding all other employees, confidential employees, supervisors and executives, who were employed by the City of Milwaukee on February 19, 1964, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of all the employees eligible desire to constitute themselves a collective bargaining

employees voting desire to be represented by Local 311, International Union of Operating Engineers, AFL-CIO, for the purpose of conferences and negotiations with the City of Milwaukee on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this 19th day of February, 1964.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Morris Slavney
Morris Slavney, Chairman

Arvid Anderson
Arvid Anderson, Commissioner

Zel S. Rice II
Zel S. Rice II, Commissioner

STATE OF WISCONSIN

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- - - - -	:	

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTIONS

Various organizations, having their offices in Milwaukee, Wisconsin, filed petitions with the Wisconsin Employment Relations Board requesting the Board to conduct elections, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of the City of Milwaukee employed in the Health Department, to determine the bargaining representatives of said employees for the purpose of engaging in conferences and negotiations with representatives of the City of Milwaukee on questions of wages, hours and conditions of employment.

On April 2, 1962 Milwaukee District Council 48, American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter referred to as District Council 48, petitioned the Board to conduct a separate election among all classifications of employees in the Health Department excluding supervisory personnel and craft employees receiving the prevailing rates.^{1/} On August 26, 1963 District Council 48, by letter, advised the Board that it desired to amend its original petition in that it was presently claiming to represent only the employees in the Bureau of Environ-

health nurses employed in the Health Department. Also in its petition of April 2, 1962, District Council 48 petitioned the Board to conduct a separate election among employees in the Department of Sealer of Weights and Measures. On February 28, 1963 the Board issued a Direction of Election (Decision No. 6244) involving employees in the Sealer of Weights and Measures. Thereafter the Municipal Employer advised the Board that said department was in the process of becoming a division of the Health Department, and subsequently, and prior to July 1, 1963, this change was consummated by a resolution adopted by the Common Council. Therefore the Board is today setting aside the original Direction of Election issued involving the employees in the Sealer of Weights and Measures and is herein providing for an election among said employees as a group in the Health Department.

On April 23, 1962 the Staff Nurses Council of the Milwaukee Health Department, hereinafter referred to as Nurses Council, filed its petition requesting the Board to conduct an election in a unit consisting of Public Health Nurses II and I, Junior Public Health Nurses and Graduate Nurses I.^{2/}

On April 24, 1962 the Association of Scientific Personnel of the Bureau of Laboratories in the Health Department filed its petition requesting the Board to conduct an election in a unit consisting of scientific personnel in the Bureau of Laboratories.^{3/}

On April 24, 1962 the Association of Physicians and Dentists of the Health Department of the City of Milwaukee filed its petition requesting the Board to conduct an election in a unit consisting of Physicians, Dentists and Dental Hygienists employed in the Health Department.^{4/}

^{2/} Case VII No. 8638 ME-23
^{3/} Case VIII No. 8642 ME-24
^{4/} Case IX No. 8643 ME-25

On April 27, 1962 the International Union of Operating Engineers, Local No. 311, hereinafter referred to as Local No. 311, filed a petition, where in part, it requested the Board to conduct an election in a unit consisting of Building Maintenance Supervisors and all Firemen employed in the Health Department.^{5/}

During the course of the hearing various issues were raised with respect to the eligibility of employees based on conflicting claims of supervisory functions allegedly performed by various employees. At the hearing the parties stipulated that the Board could determine such issues by examining job description sheets, examination announcements, and the like, furnished to the Board by the Municipal Employer. There was also limited testimony taken with regard to said issues. The Board has reviewed the evidence adduced during the course of the hearing and the material furnished in accordance with the aforementioned stipulation. The remaining portion of this Memorandum reflects the Board's rationale and determination in resolving the issues with respect to eligibility, voting groups and appropriate collective bargaining units.

The Organization of the Health Department

The Health Department of the City of Milwaukee consists of the following bureaus:

- Bureau of Administration
- Bureau of Laboratories
- Bureau of Public Health Nursing
- Bureau of Maternal and Child Health
- Bureau of Environmental Sanitation
- Bureau of Preventable Diseases and Medical Services

During the course of the hearing the parties stipulated that certain classifications in the Health Department were supervisory and therefore to be excluded from the eligibles in any unit or voting group. The Municipal Employer claimed that all Physicians

^{5/} Case XI No. 8646 ME-28

in the employ of the Health Department, over and above the Physicians agreed upon as being supervisory, should also be excluded from representation. The Department employs approximately sixty (60) additional Physicians. The Board concludes that Physicians, as such, are not to be excluded and that any exclusion must rest on some other basis.

As noted above, District Council 48, after the hearing, changed its position with regard to an over-all Health Department bargaining unit. Therefore, in this proceeding, the Board is only concerned with the eligibility of employees employed in the various bureaus of the Health Department covered by the petitions filed by the various organizations and the amendments thereto.

District Council 48 now seeks to represent employees in the Bureau of Environmental Sanitation and Public Health Nursing. Nurses Council seeks to represent Public Health Nurses II and I, Junior Health Nurses and Graduate Nurses II and I. It should be noted that the classification of Graduate Nurses II and I are employed in the Bureau of Preventable Diseases and Medical Services, more specifically in the Division of Medical Services at Johnston Municipal Hospital. The petition of the Association of Scientific Personnel involves employees performing scientific laboratory work in the Bureau of Laboratories. The petition of the Association of Physicians and Dentists covers Physicians and Dentists in various bureaus of the Department. The petition of Local 311 covers employees in the Bureau of Administration employed in the Division of Building and Grounds.

VOTING GROUP A -- Bureau of Environmental Sanitation

The Bureau of Environmental Sanitation is a separate bureau in the Health Department. Since the Sealer of Weights and Measures is now included in the Bureau of Environmental Sanitation, the employees, who were eligible to participate in the election

originally directed by the Board in the separate Direction issued on February 28, 1963 with respect to the employees in the Sealer of Weights and Measures, are now to be included in the voting group of eligible employees in the Bureau of Environmental Sanitation. The eligible employees in said bureau, since they constitute a separate division of the Health Department, will be given the opportunity to determine for themselves whether they desire to constitute a collective bargaining unit separate and apart from other employees of the Municipal Employer. If a majority of the eligible employees in said voting group favor a separate unit they shall be so considered. If a separate bargaining unit is established, the employees therein will be given an opportunity to determine whether they desire to be represented by District Council 48 or no organization. The Board will conduct the unit vote and the representation vote simultaneously. However, the Board shall count the ballots with respect to the unit vote prior to counting the ballots cast for the bargaining representative. If a majority of the eligible employees do not vote in favor of establishing the separate unit, then the Board shall impound the ballots with respect to the choice of the bargaining representative.

The following positions and incumbents thereof are to be excluded from the eligibles in the Bureau of Environmental Sanitation Voting Group:

(s) Supt. of Environ. Sanitation (Barry)
(s) Asst. Supt. of Environ. Sanitation (Parker)

General Office

(s) Clerk Steno.IV (Forrester)

Food Division

(s) Food Insp. Supvr. (Vacant)

Sealer of Weights and Measures

(s) Deputy Sealer (Dwyer)

Housing and Sanitation Division

(s) San. Insp. Supvr. (Heider,

The following classifications are eligible to vote in Voting Group A:

General Office

Clerk Steno. III, II
Clerk Typist II, I

Food Division

Food Inspector II, I
Dairy Inspector II, I

Housing and Sanitation Division

Sanitary Inspector II, I

Environmental Technical
Services Division

Sanitary Inspector II, I

Sealer of Weights and Measures

Weights & Measures Inspector
Custodial Worker II
City Laborer (Regular)

VOTING GROUP B -- Bureau of Public Health Nursing

The Municipal Employer employs professional nurses in two bureaus of the Department. Public Health Nurses III and I, Junior Public Health Nurses and Graduate Nurses I are employed in the Bureau of Public Health Nursing. The Public Health Nurse III as noted below has been found to be supervisory. The classification of Graduate Nurse II and I are employed in the Bureau of Preventable Diseases and Medical Services, more specifically in the Division of Medical Services at the Johnston Municipal Hospital. The Graduate Nurse II position, as indicated below, has been found by the Board to be supervisory. The nurses in the employ of the Health Department require professional training and are considered by the Board to be "craft" employees within the meaning of Section 111.70 of the Wisconsin Statutes^{6/} and therefore, such classifications cannot be included with other employees in the same collective bargaining unit. The Nurses Council desires a unit of those nurses employed only in the Bureau of Public Health Nursing and, as such, would include the Public Health Nurses I, the Junior Public Health Nurses and the Graduate Nurses I classifications employed in that bureau. It would exclude the Graduate Nurse I

6/ Outagamie County Hospital, Decision No. 6076, 8/62

classification employed in the Bureau of Preventable Diseases and Medical Services at the Johnston Municipal Hospital. The working conditions of the nurses in Public Health Nursing are dissimilar to those of the nurses employed at Johnston Municipal Hospital. The Municipal Employer has established this divisional separation and under the policy expressed in Milwaukee Board of Vocational and Adult Education^{7/} the nurse classifications employed in the Bureau of Public Health Nursing constitute a voting group and the employees occupying such classifications will be given the opportunity to determine for themselves whether they desire to constitute a collective bargaining unit separate and apart from the nurse classifications employed at the Johnston Hospital. If a majority of the employees eligible in said voting group favor a separate unit they shall be so considered. Both the Nurses Council and District Council 48 have indicated a desire to represent the employees in this voting group. If a separate bargaining unit is established the employees therein will be given an opportunity to select either the Nurses Council, or District Council 48, or no organization as their bargaining representative. The Board will conduct the unit vote and the representation vote simultaneously. However, the Board shall count the ballots with respect to the unit vote prior to counting the ballots cast for the bargaining representative. If a majority of the eligible employees do not vote in favor of establishing the separate unit, then the Board shall impound the ballots with respect to the choice of the bargaining representative.

The following positions and incumbents thereof are to be excluded from the eligibles in the Public Health Nursing Voting Group:

- (s) P. H. Nursing Supt. (Mulaney)
- (s) Asst. P. H. Nursing Supt. (Wilhelm)

^{7/} Decision No. 6343, 5/63.

Central District

(s) P.H. Nurse III (Axelson,
Baer, Bruening, Horn,
Demers, Keefer)

South District

(s) P.H. Nurse III (Greene,
Heger)

North District

(s) P.H. Nurse III (Boeselager,
Kerber, Malecki, Moroney)

Lake District

(s) P.H. Nurse III (Mages)

The following classifications are eligible to vote in the
Public Health Nursing Voting Group:

Public Health Nurse I
Junior Public Health Nurse
Graduate Nurse I

VOTING GROUP C -- Scientific Personnel

The Association of Scientific Personnel seeks an election among a unit consisting of employes performing scientific laboratory work in the Bureau of Laboratories. The Bureau of Laboratories has been established as a separate department by the Municipal Employer. The Association of Scientific Personnel contends that employes performing scientific laboratory work in the Bureau constitute an appropriate unit. While the employes occupying the classifications desired to be included in the unit have specialized training and include a number of positions which require graduation from an accredited college or university with specialized courses in various sciences, it cannot be said that said employes are engaged in a "profession" as to fall within the meaning of the term "craft" as intended in Section 111.70 of the Wisconsin Statutes. The Bureau of Laboratories is a separate bureau in the Department of Public Health. The Association of Scientific Personnel would include the classifications of Chemist, Bacteriologist, Virologist and Chemical Lab and Medical Lab Technicians in the unit. It would exclude the clerical and custodial employes as well as laboratory helpers and clinical assistant. Since the classifications desired to be included in

the unit are allied to each other and concern themselves directly with scientific laboratory functions, while the remaining employees are not so engaged, we conclude that such scientific personnel constitute a group separate and apart from the remaining employees in the Bureau of Laboratories and therefore they are given the opportunity to determine for themselves whether they desire to constitute a separate collective bargaining unit. If a majority of the eligible employees in this voting group indicate a desire to establish themselves as a bargaining unit separate and apart from other employees in the Health Department they shall be so considered. If a separate bargaining unit is established the employees therein will be given an opportunity to determine whether they desire to be represented by the Association of Scientific Personnel or by no organization. The Board will conduct the unit vote and the representation vote simultaneously. However the Board will count the ballots with respect to the unit vote prior to counting the ballots cast for the bargaining representative. If a majority of the eligible employees do not vote in favor of establishing the separate unit then the Board shall impound the ballots with respect to the choice of the bargaining representative.

The following positions and incumbents thereof are to be excluded from the eligibles in Voting Group C:

- (s) P. H. Lab. Supt. (Wisniewski)
- (s) Bacteriologist III (Nimlos)
- (o) Clerk Steno. III
- (o) Clerk Typist II
- (o) Laboratory Helper
- (o) Clinical Assistant
- (o) Custodial Worker II

The classifications eligible to vote in Voting Group C are as fol

Chemist III, II
 Bacteriologist II, I
 virologist xxx, x
 Chemical Lab Technician
 Medical Lab Technician

in a unit consisting of Physicians, Dentists and Dental Hygienists. No other organization claimed to represent employes in said classifications. These are professional positions and therefore are considered "craft" positions within the meaning of Section 111.70 of the Wisconsin Statutes and since said positions are allied to each other in the Health Department they are considered as constituting a single craft and therefore an appropriate collective bargaining unit. All eligible employes in this bargaining unit will be given the opportunity to select the Association of Physicians and Dentists or no organization as their bargaining representative.

The Board has considered the argument of the Municipal Employer to the effect that all Physicians and Dentists in the Department should be excluded for the reason that they exercise significant supervisory responsibilities over subordinate personnel such as Nurses and Clinical Assistants. We do not consider the type of supervision exercised by a physician over a nurse during the course of her duties as sufficient to exclude the Physician from the unit as a supervisor. The following positions and incumbents thereof are to be excluded from the eligibles in the instant unit:

BUREAU OF ADMINISTRATION

- (s) Commissioner of Health (Krumbiegel)
- (s) Deputy Com. of Health (Antonmattie)

BUREAU OF MATERNAL AND CHILD HEALTH

- (s) Supt. of Maternal and Child Health (Downes)

Division of Maternal
and Child Health

- (s) P. H. Physician II (Williams)

Division of Denistry

- (s) Dentist II (Kortsch)

BUREAU OF ENVIRONMENTAL SANITATION

- (s) Asst. Supt. of Environ. San. (Parker)

BUREAU OF PREVENTABLE DISEASES AND MEDICAL SERVICES

(s) Supt. of Preventable Diseases
and Medical Services (Kleiman)

Division of Preventable Diseases Division of Medical Services

(s) Physician I ($\frac{1}{2}$ time)
(Bachman)
(s) Physician II (Gebert,
Mueller, Kelly, Wiesen)

Medical Clinic Section

(s) Physician II ($\frac{1}{2}$ time)
(Hoelscher, Kohne)

Johnston Municipal Hospital

(s) Physician III (Caton)
(s) Physician II (Cogan,
Gass, Hartman,
Jaekels, Turner,
Wengelewski)
(s) Physician II ($\frac{1}{2}$ time)
(Busby)
(s) Physician II ($\frac{3}{4}$ time)
(Fox)

The classifications eligible to vote in this unit are as
follows:

Public Health Physician I
Public Health Physician I ($\frac{1}{2}$ time)
Physician I
Physician I ($\frac{1}{2}$ time)
Dentist I
Dental Hygienist ($\frac{3}{4}$ time)

VOTING GROUP E -- Building and Grounds

Local 311 requests an election among the employees occupying the positions of Building Maintenance Supervisor and all Firemen employed in the Health Department. There is only one employee occupying the position of Building Maintenance Supervisor I in the Health Department and from an examination of his job description we are satisfied that he performs supervisory duties and therefore the employee occupying that classification (Bergant) is not eligible to participate in any election conducted by the Board. Firemen are employed at three locations in the Health Department, at the Johnston Municipal Hospital, at the Keenan Health Center and at the South Side Health Center. The Division of Building and Grounds in addition to including the above classifications at the three locations also employs the classifications of Custodial Worker III, II and I as well as a Maintenance Mechanic. We

consider the Division of Building and Grounds as a separate department and as such constitutes a separate voting group. The Firemen classification does not constitute a "craft" within the meaning of Section 111.70. They are included with other eligible employees in the Building and Grounds Voting Group. All eligible employees in this voting group shall be given the opportunity to determine for themselves whether they desire to constitute a separate collective bargaining unit. If a majority of the eligible employees in this voting group indicate a desire to establish themselves as a bargaining unit, separate and apart from other employees in the Health Department they shall be so considered. If a separate bargaining unit is established the employees therein will be given an opportunity to select Local 311 or no organization as their bargaining representative. The Board will conduct the unit vote and the representation vote simultaneously. However the Board shall count the ballots with respect to the unit vote prior to counting the ballots cast for the bargaining representative. If a majority of the eligible employees do not vote in favor of establishing the separate unit, then the Board shall impound the ballots with respect to the bargaining representative. The following classifications of employees are eligible to vote in the Building and Grounds Voting Group:

Fireman
Maintenance Mechanic
Custodial Worker III, II, I

It is to be noted that in the Direction there is a distinction in the voting requirement necessary to establish a separate collective bargaining unit as compared to the voting requirement necessary for the selection of the bargaining representative. This distinction is required under the statute. Section 111.70

(4) (d) provides that:

"Proceedings in representation cases shall be in accordance with ss. 111.02 (6) and 111.05 (Wisconsin Statutes) insofar as applicable, except that where the board finds that the proposed unit includes a craft the board shall exclude such craft from the unit."

The material language in Section 111.02 (6) is as follows:

"The term 'collective bargaining unit' shall mean all of the employees of one employer (employed within the state) except that where a majority of such employees engaged in a single craft, division, department or plant shall have voted by secret ballot as provided in section 111.05 (2) to constitute such group a separate bargaining unit they shall be so considered, ..."

In order for the employees, otherwise eligible, to constitute themselves a separate bargaining unit they must be employed by the Municipal Employer in a separate division or department, and in order to establish the separate unit a majority of the otherwise eligible employees engaged or employed in that separate division or department must vote in favor of constituting themselves a separate collective bargaining unit. Since Section 111.70 (4) (d) establishes craft employees as separate units the requirement with respect to craft employees as noted in Section 111.02 (6) does not apply to craft employees employed by a municipal employer.

The material provisions of Section 111.05 provide as follows:


"Representatives chosen for the purposes of collective bargaining by a majority of the employees voting in a collective bargaining unit shall be the exclusive representatives of all of the employees in such unit. ..."

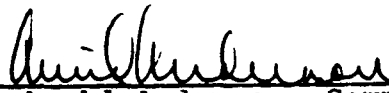
Therefore, unless a majority of all eligible employees in the separate department or division, which we have identified as voting groups, with the exception of Voting Group D, vote


to constitute themselves a separate unit, there is no need to determine the bargaining representative for the reason that no appropriate collective bargaining unit will be established by the required number of employees in the separate division or department.

Dated at Madison, Wisconsin this 19th day of February, 1964.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By 
Morris Slavney, Chairman


Arvid Anderson, Commissioner


Zel S. Rice II, Commissioner

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- (s) Stipulated by the parties as being supervisory.
 - (xs) Disputed position found by the Board to be supervisory.
 - (o) Not considered scientific personnel.