

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :

MILWAUKEE VOCATIONAL TEACHERS UNION :
LOCAL 212, AMERICAN FEDERATION OF :
TEACHERS, AFL-CIO :

Case I :
No. 8584 ME-58 :
Decision No. 6343-A :

Involving Employes of :

MILWAUKEE BOARD OF VOCATIONAL :
AND ADULT EDUCATION :

Appearances:

Walther & Burns, Attorneys at Law, by Mr. David L. Walther
appearing on behalf of the Petitioner.

Mr. Nicholas M. Sigel, Assistant City Attorney, appearing on
behalf of the Municipal Employer.

ORDER OF UNIT CLARIFICATION

Milwaukee Vocational Teachers Union Local 212, American Federation
of Teachers, AFL-CIO, having filed a petition with the Wisconsin Employ-
ment Relations Commission, wherein it requested the Commission to clarify
the bargaining unit set forth in the Certification of Representatives
issued by the Commission on June 17, 1963, in the above-entitled matter,
specifically with respect to the interpretation of which employes consti-
tute "regular teaching personnel of the Milwaukee Board of Vocational
and Adult Education"; and a hearing on such petition having been held in
Milwaukee, Wisconsin on May 19, 1969 before Robert B. Moberly, Examiner;
and the Commission having considered the evidence and being fully advised
in the premises;

NOW, THEREFORE, it is

ORDERED

That teachers employed by the Municipal Employer and paid from
funds provided under the federal Manpower Development and Training

Act and Adult Basic Education Act are "regular teaching personnel of the Milwaukee Board of Vocational and Adult Education," and that such teachers who also meet the requirement of "teaching at least fifty per cent of a full teaching schedule" are thereby included in the bargaining unit.

Given under our hands and seal at the City of Madison, Wisconsin, this 21st day of November, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Stevney
Thomas Stevney, Chairman

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

William R. Wilberg
William R. Wilberg, Commissioner

The sole issue is whether the Petitioner is correct in its contention that the phrase "all regular teaching personnel" in the certification includes those teachers who teach under programs established by the Manpower Development and Training Act (MDTA) and the Adult Basic Education Act (ABE), both enacted by the Congress of the United States.

There is no dispute that only those persons teaching fifty per cent of a full teaching schedule would be included if the position of the Petitioner prevails. At the time of the hearing there was a total of 25 MDTA and 4 ABE teachers, in addition to approximately 425 Board-paid teachers, teaching at least fifty per cent of a full teaching schedule.

Subsequent to the filing of the instant petition, but prior to the hearing, the Commission in two decisions involving the Milwaukee School Board, held that the mere fact that employes are paid from funds provided through programs funded by the federal or state government does not prevent the inclusion of such employes in the appropriate collective bargaining unit.^{1/} The Municipal Employer does not challenge these rulings in this proceeding. Nor does it dispute that the employes involved here are entitled to be represented under Section 111.70. Rather, it argues that such employes "should, if anything, be a separate unit and the proper petition, therefore, should be filed." It argues that the community of interest of these teachers is different from that of the teachers in the overall unit.

We note initially that the facts of this case, outlined below, are almost identical to the facts in a 1966 case involving the Superior Vocational, Technical and Adult School. In that case, we held that teachers whose salaries are paid by the federal government under the federal Manpower Development and Training Act are included in a unit consisting of all regular teaching personnel teaching at least fifty per cent of a full teaching schedule.^{2/} The Commission stated its rationale as follows:

1/ Milwaukee Board of School Directors, Dec. No. 9001, 4/69;

Milwaukee Board of School Directors, Dec. No. 9000, 4/69.

2/ Superior Vocational, Technical and Adult School, Dec. No. 7479, 2/66.

"During the course of the hearing, an issue arose with respect to the eligibility of teachers who were involved in teaching students pursuant to programs established by the Man Power Development and Training Act, enacted by the Congress of the United States. The programs, pursuant to such Act, are tailored to the needs of the particular community. Funds for the payment of teachers participating in the program which also include funds for instructional supplies, utilities cost, equipment purchases and payment to supervisors and clerical staffs involved, are provided by the Federal Government and none of such costs are paid from local tax monies. However, teachers participating in the program administered by the Municipal Employer involved are subject to the supervision of the Municipal Employer. Said teachers must possess qualifications comparable to others in the employ of the Municipal Employer, who provide instruction in related subject matter. The Municipal Employer schedules the classes, and while the salaries paid to the participating teachers are paid on an hourly basis, their rates of pay are comparable to the salaries received by other teachers. The teachers teaching in this program also participate in the Wisconsin Teacher Retirement Fund.

"We conclude that the teachers participating in the program are eligible to vote in the election provided they teach at least fifty per cent of a full teaching schedule. The fact that some of the classes in the program are temporary and less than a full schedule, is not determinative of the teachers' eligibility. If the teacher meets the 'more than fifty per cent of a full teaching schedule' requirement, he will be eligible to participate in the election."

We believe that the Superior case is controlling since the circumstances and the unit description of the case are substantially the same as those of the instant case. Basically, teachers teaching under the MDTA and ABE programs share with Board-paid teachers common working conditions, duties and functions. The 29 MDTA and ABE personnel, like the 425 Board-paid teachers, are considered by the Municipal Employer to be professional teachers and part of the Municipal Employer's teaching faculty. Full-time MDTA, ABE and Board-paid teachers are subject to the same rules and regulations of the same municipal employer. All generally are subject to the same working hours and their salaries are determined in the same manner. All receive the same benefits with respect to the Wisconsin Retirement Fund, health insurance, sick leave and holidays.

Additionally, many of the courses taught under the MDTA program are also taught in non-MDTA programs. Although courses taught under the MDTA program are geared for a different student group, the same course outlines and course numbers are used for both MDTA and non-MDTA courses.

The record also indicates some interchange with regard to Board-paid teachers teaching some courses under the MDTA program, and with regard to some teachers under the MDTA program having been appointed to the conventional staff.

There appear to be some differences with respect to life insurance benefits and certification and tenure requirements, but we believe such differences are insufficient to permit a contrary result. In our judgment, the homogeneity of the profession outweighs the distinctions in their conditions.

Additionally, at the time of the election in 1963 the Municipal Employer submitted a list which contained the names of the persons employed under the MDTA program at that time. Said persons voted without challenge at the time of the election. Thus the parties themselves indicated an intent to include in the unit teachers teaching under the MDTA program. Although the number of teachers under the MDTA program has expanded from 4 to 25 since 1963, the duties and qualifications of teachers under this program remain the same and there is nothing to indicate that such teachers should not now be included in the unit.


In view of the entire record, we conclude that teachers paid from funds provided under the federal MDTA and the ABE Act are "regular teaching personnel," and that such teachers who also meet the requirement of teaching "at least fifty per cent of a full teaching schedule" are included in the bargaining unit.

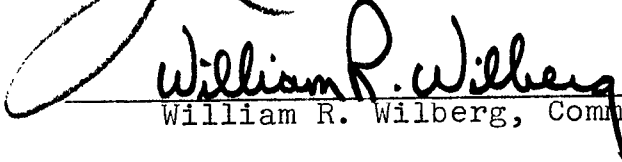
Dated at Madison, Wisconsin, this 21st day of November, 1969.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


Zel S. Rice II, Commissioner


William R. Wilberg, Commissioner