

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

:

In the Matter of the Petition of :

:

AMERICAN FEDERATION OF TEACHERS :

LOCAL 212-MATC : Case 1

: No. 43566 ME-395

Involving Certain Employes of : Decision No. 6343-E

:

MILWAUKEE AREA VOCATIONAL, TECHNICAL :

AND ADULT EDUCATION DISTRICT :

:

Appearances:

Shneidman, Myers, Dowling & Blumenfield, Attorneys at Law, by Mr. Timothy E. Hawks, 700 West Michigan Street, Milwaukee, Wisconsin 53702, appearing on behalf of the Federation.
Quarles & Brady, S.C., Attorneys at Law, by Mr. David B. Kern, 411 East Wisconsin Avenue, Milwaukee, Wisconsin 53202-4497, appearing on behalf of the District.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER
CLARIFYING BARGAINING UNIT

On January 30, 1990, the American Federation of Teachers, Local 212-MATC, filed a petition with the Wisconsin Employment Relations Commission requesting that the positions of Outreach Specialist be included in a bargaining unit of Milwaukee Area Vocational, Technical and Adult Education District employes represented by the Federation. Thereafter, the matter was held in abeyance pending settlement discussions between the parties. A hearing in the matter was held in Milwaukee, Wisconsin on April 8, 1992, before Examiner Coleen A. Burns, a member of the Commission's staff. The record was closed on July 7, 1992, upon receipt of post-hearing written argument. The Commission, being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. American Federation of Teachers, Local 212-MATC, hereafter referred to as the Federation, is a labor organization and has its offices at 703 West Juneau Avenue, Milwaukee, Wisconsin 53233.
2. Milwaukee Area Vocational, Technical and Adult Education District, hereafter referred to as the District, is a municipal employer and has its offices at 700 West State Street, Milwaukee, Wisconsin 53233.
3. The Federation is the certified exclusive bargaining representative of District employes in a collective bargaining unit described as follows:

All regular full-time teaching personnel and all regular part-time teaching personnel having a fifty percent (50%) or more teaching load, but excluding teaching personnel having less than a fifty percent (50%) teaching load, supervisory personnel (including but not limited to Deans, Associate Deans, Assistant Deans and Assistant Directors) and excluding all other administrative, managerial and confidential personnel.
(Amended by Decision No's. 8736-B, 16507-A (WERC, 6/79), Dec. No. 6343-C (WERC, 11/81) and Dec. No. 6343-

D (WERC, 10/89).

The collective bargaining unit includes the positions of School Nurse and Counselor.

4. The current written position description for the position of Outreach Specialist - Project Hold is as follows:

MILWAUKEE AREA TECHNICAL COLLEGE
POSITION DESCRIPTION

<u>TITLE:</u> Outreach Specialist - Project Hold	<u>JOB CODE/SALARY CLASS CODE:</u> 543/009
	<u>CABINET DIVISION:</u> Executive Dean
<u>REPORTS TO:</u> Project Administrator, Project Hold	<u>DIVISION:</u> High School Relations
<u>EFFECTIVE DATE OF DESCRIPTION:</u> September 6, 1988	<u>EEOC CLASS:</u> Professional
<u>SUPERVISORY RESPONSIBILITIES:</u> None	<u>EXEMPT/NON-EXEMPT STATUS:</u> Exempt
<u>NATURE OF WORK:</u>	

Under the supervision of the Project Administrator, Project Hold, to develop and maintain working relationships with public and private schools, community based organizations, and other social agencies that identify and locate out-of-school youth; to identify and re-enroll high school dropouts into a formal high school setting; to retain potential dropouts in school through completion by providing support services to students and their families through participation in support activities that establish bonding with the educational system; and to provide assessments and referrals to project participants by identifying options and services available for students including access to adult vocational courses, Adult High School, General Education Development, basic education, remedial education, rehabilitative services, guidance services and career counseling. Work is generally diversified requiring judgement, analysis and decision-making according to established practices and procedures. Supervision received is general. Daily responsibilities are completed independently using established policies and general objectives with interaction with supervisor limited to problems or unusual conditions.

PRINCIPAL DUTIES AND RESPONSIBILITIES:

1. Establishes linkages with public schools, private schools, VTAE schools, community based organizations, and other social agencies to identify out-of school and at-risk students.
2. Establishes linkages with Ethan Allen and other juvenile institutions to provide transitions to educational services in the community.
3. Recruits and makes presentations to out-of-school youth at various sites as necessary.
4. Identifies and refers potential school dropouts to the

various instructional resources MPS, MATC and various community based organization for participation in support activities geared toward establishing bonding between the school system, the youth and their parents and toward raising youth's self-esteem.

5. Identifies and refers project participants who are in need of personal counseling, rehabilitative service, family services, career counseling and other support services; coordinates the administration and interpretation of individual assessment.
6. Assists in the development of formal individual educational and employment plans.
7. Identifies instructional related support services offered through community service agencies and/or schools; makes referral of youth in need of these services.
8. Conducts follow-up evaluations of all referred youth to assure matching with the proper learning, employment and educational placement.
9. May follow up on project participants placed at community based organizations as required; may monitor programs which provide High School Relations services in community based organizations.
10. Establishes and develops follow up records as necessary; establishes and maintains student profiles, records, files, and other pertinent data on applicants, participants, rejects and other relevant or assigned information.
11. Conducts in-service programs or workshops as required.
12. Participates in meetings, workshops, seminars and other professional activities as required.
13. Performs related duties as required or assigned for the effective operation of the project.

QUALIFICATIONS

Requires a Bachelor's degree in secondary or vocational education and two (2) years of successful teaching and/or advising of adolescents in a multi-cultural educational setting; related occupational experience with multi-cultural, at-risk youth; or any equivalent combination of training and experience which provides the necessary knowledge, skills and abilities to include:

1. Knowledge and understanding of the public school and the VTAE systems.
2. Knowledge and understanding of the problems of school dropouts.
3. Ability to establish and maintain effective working relationships with MATC staff, faculty, students, representatives from outside agencies and educational institutions, and the general public.
4. Ability to communicate effectively through both oral and written means.
5. Ability to work effectively with individuals from diverse educational and socioeconomic backgrounds.

This description has been prepared to assist in evaluating various classes of responsibilities, skills and working conditions. It indicates the kinds of tasks and levels of work difficulty required of positions given this classification. It is not intended to limit or modify the right of any supervisor to assign, direct, and control the work of employes under supervision. The use of a

particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of similar kind or level of difficulty.

5. The current written position description for the position of Outreach Specialist - Project Hope is as follows:

MILWAUKEE AREA TECHNICAL COLLEGE
POSITION DESCRIPTION

TITLE: Outreach Specialist - Project Hope
JOB CODE/SALARY CLASS CODE: 543/009
CABINET DIVISION: Executive Vice President

REPORTS TO: Coordinator, High School Recruitment
DIVISION: Academic Affairs

EFFECTIVE DATE OF DESCRIPTION: September 10, 1991
EEOC CLASS: Professional

EXEMPT/NON-EXEMPT STATUS: Exempt
JOB GROUP: Professionals II

SUPERVISORY RESPONSIBILITIES:
None

NATURE OF WORK:

Under the supervision of the Coordinator, High School Recruitment, to develop and maintain working relationships with public and private schools, community based organizations, colleges and universities, and other social agencies that identify and locate out-of-school youth; to identify and enroll high school and college students in MATC programs; to provide support services to students and their families through participation in support activities that establish bonding with the educational system; and to provide assessments and referrals to project participants by identifying options and services available for students including access to remedial education, rehabilitative services, guidance services, career counseling, and financial assistance. Work is generally diversified requiring judgement, analysis and decision-making according to established practices and procedures. Supervision received is general. Daily responsibilities are completed independently using established policies and general objectives with interaction with supervisor limited to problems or unusual conditions.

PRINCIPAL DUTIES AND RESPONSIBILITIES:

1. Establishes linkages with public high schools, private schools, VTAE schools, community based organizations, colleges and universities, and other social agencies to identify and enroll students in MATC programs.
2. Recruits and makes presentations to youth at various sites as necessary.
3. Identifies and refers potential students to the various instructional resources, MPS, MATC, colleges, and various community based organizations, for participation in support activities geared toward establishing bonding between the school system, the youth and their parents, and toward raising the youth's self-esteem.
4. Identifies and refers project participants who are in need of personal counseling, rehabilitative services, family services, career counseling and other support services;

- coordinates the administration and interpretation of individual assessment.
5. Assists in the development of formal, individual educational and employment plans.
 6. Identifies instructional related support services offered through community service agencies and/or schools; makes referral of youth in need of these services.
 7. Conducts follow-up evaluations of all referred youth to assure matching with the proper learning, employment and post-secondary educational placement.
 8. Establishes and develops follow up records as necessary; establishes and maintains student profiles, records, files, and other pertinent data on applicants, participants, rejects and other relevant or assigned information.
 9. Conducts in-service programs or workshops as required.
 10. Participates in meetings, workshops, seminars and other professional activities as required
 11. Performs related duties as required or assigned for the effective operation of the project.

QUALIFICATIONS

Requires a Bachelor's degree in education and two (2) years of successful teaching and/or advising of youth in a multi-cultural educational setting; or any equivalent combination of training and experience which provides the necessary knowledge, skills and abilities to include:

1. Knowledge and understanding of the public high school and the VTAE systems and other colleges.
2. Knowledge and understanding of the problems of obtaining financial aids.
3. Ability to establish and maintain effective working relationships with MATC staff, faculty, students, representatives from outside agencies and educational institutions, and the general public.
4. Ability to communicate effectively through both oral and written means.
5. Ability to work effectively with individuals from diverse educational and socioeconomic backgrounds.

This description has been prepared to assist in evaluating various classes of responsibilities, skills and working conditions. It indicates the kinds of tasks and levels of work difficulty required of positions given this classification. It is not intended to limit or modify the right of any supervisor to assign, direct, and control the work of employes under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of similar kind or level of difficulty.

6. The current written position description for the position of Outreach Specialist - Technical Educational Development Project is as follows:

MILWAUKEE AREA TECHNICAL COLLEGE
POSITION DESCRIPTION

<u>TITLE:</u>	<u>REPORTS TO:</u> Project Administrator
Outreach Specialist - Technical Education Development Project	<u>EFFECTIVE DATE OF DESCRIPTION:</u> October 22, 1990

EXEMPT/NON-EXEMPT STATUS:

Exempt

JOB CODE/SALARY CLASS CODE: 543/009

SUPERVISORY RESPONSIBILITIES:

None

CABINET DIVISION:

Executive Vice President

DIVISION:

Academic Affairs

EEOC CLASS:

Professional

JOB GROUP:

Professionals II

NATURE OF WORK:

Under the supervision of the Administrator, Technical Education Development Project (TED), to develop and maintain working relationships with public and private schools, community based organizations, and other social agencies that identify and locate out-of-school youth; to identify and re-enroll high school dropouts into a formal or informal high school setting; and to provide assessments and referrals to project participants by identifying options and services available for students including access to adult vocational courses, Adult High School, high school equivalency, General Education Development, basic education, remedial education, rehabilitative services, guidance service and career counseling. The position requires extensive coordination with the Associate Dean for Adult High School and the Administrator of Project Hold. Work is generally diversified requiring judgement, analysis and decision-making according to established practices and procedures. Supervision received is general. Daily responsibilities are completed independently using established policies and general objectives with interaction with supervisor limited to problems or unusual conditions.

PRINCIPAL DUTIES AND RESPONSIBILITIES:

1. Establishes linkages with public, private, and VTAE schools, community based organizations and other social agencies to identify high school non-completers.
2. Recruits and makes presentations to out-of-school youth at various sites as necessary.
3. Monitors High School Relations programs and services in community based organizations; follows up on students assigned to the programs.
4. Assists in the development of formal individual educational and employment plans.
5. Identifies and refers project participants who are in need of personal counseling, rehabilitative services, family services, career counseling and other support services; coordinates the administration and interpretation of individual assessment.
6. Identifies support services offered through community service agencies and/or schools; makes referrals of youth in need of services.
7. Conducts follow-up evaluations of youth referrals to assure matching with proper learning, educational and employment placement.
8. Establishes and develops follow - up records as necessary; establishes and maintains student profiles, records, files, and other pertinent data on applicants, participants,

- rejects, and other relevant or assigned information.
9. Conducts in-service programs or workshops as required.
 10. Acts as liaison between community based organizations and the Technical Educational Development Project.
 11. Participates in meetings, workshops, seminars and other professional activities as required.
 12. Performs related duties as required or assigned.

QUALIFICATIONS

Requires a Bachelor's degree in secondary or vocational education; two (2) years of occupational experience in teaching or advising at risk youth in a multicultural educational setting; or any equivalent combination of experience and training which provides the necessary knowledge skills and abilities to include the following:

1. Knowledge and understanding of the public school and VTAE systems.
2. Knowledge and understanding of the problems of school dropouts.
3. Ability to establish and maintain effective working relationships with MATC staff, faculty, students, representatives from outside agencies and educational institutions, and the general public.
4. Ability to communicate effectively through both oral and written means.
5. Ability to work effectively with individuals from diverse educational and socio-economic backgrounds.

This description has been prepared to assist in evaluating various classes of responsibilities, skills and working conditions. It indicates the kinds of tasks and levels of work difficulty required of positions given this classification. It is not intended to limit or modify the right of any supervisor to assign, direct, and control the work of employees under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of similar kind or level of difficulty.

7. The current written position description for the position of Outreach Specialist - Second Chance is as follows:

MILWAUKEE AREA TECHNICAL COLLEGE
POSITION DESCRIPTION

<u>TITLE:</u> Outreach Specialist - Second Chance	<u>JOB CODE/SALARY CLASS CODE:</u> 543/009
<u>REPORTS TO:</u> Coordinator Second Chance	<u>CABINET DIVISION:</u> Executive Dean
<u>EFFECTIVE DATE OF DESCRIPTION:</u> July 18, 1988	<u>DIVISION:</u> High School Relations
<u>SUPERVISORY RESPONSIBILITIES:</u> None	<u>EEOC CLASS:</u> Professional
<u>NATURE OF WORK:</u>	<u>EXEMPT/NON-EXEMPT STATUS:</u> Exempt

Under the supervision of the Coordinator, Project Second Chance, and in coordination with the Project Coordinator - Public Schools, to develop and maintain working relationships with public and private schools, community based organizations, and other social agencies that identify and locate out-of-school youth; to identify and re-enroll high school dropouts into a formal high school setting; and to provide assessments and referrals to project participants by identifying options and services available for students including access to adult vocational courses, Adult High School, General Education Development, basic education, remedial education, rehabilitative services, guidance services and career counseling. Work is generally diversified requiring judgement, analysis and decision-making according to established practices and procedures. Supervision received is general. Daily responsibilities are completed independently using established policies and general objectives with interaction with supervisor limited to problems or unusual conditions.

PRINCIPAL DUTIES AND RESPONSIBILITIES:

1. Establishes linkages with public schools, private schools, VTAE schools, community based organizations and other social agencies to identify out-of school youth.
2. Recruits and makes presentations to out-of-school youth at various sites as necessary.
3. Identifies and refers project participants who are in need of personal counseling, rehabilitative service, career counseling and other support services; coordinates the administration and interpretation of individual assessment.
4. Assists in the development of formal individual educational and employment plans.
5. Identifies support services offered through community service agencies and/or schools; makes referral of youth in need of these services.
6. Conducts follow-up evaluations of all referred youth to assure matching with the proper learning, employment and educational placement.
7. Establishes and develops follow up records as necessary; establishes and maintains student profiles, records, files, and other pertinent data on applicants, participants, rejects and other relevant or assigned information.
8. Conducts in-service programs or workshops as required.
9. Participates in meetings, workshops, seminars and other professional activities as required
10. Performs related duties as required or assigned for the effective operat

QUALIFICATIONS

Requires a Bachelor's degree in secondary or vocational education and two (2) years of successful teaching and/or advising of adolescents in a multi-cultural educational setting; related occupational experience with multi-cultural, at-risk youth; or any equivalent combination of training and experience which provides the necessary knowledge, skills and abilities to include:

1. Knowledge and understanding of the public school and the VTAE systems.
2. Knowledge and understanding of the problems of school dropouts.
3. Ability to establish and maintain effective working relationships with MATC staff, faculty, students, representatives from outside agencies and educational institutions, and the general public.

4. Ability to communicate effectively through both oral and written means.
5. Ability to work effectively with individuals from diverse educational and socioeconomic backgrounds.

This description has been prepared to assist in evaluating various classes of responsibilities, skills and working conditions. It indicates the kinds of tasks and levels of work difficulty required of positions given this classification. It is not intended to limit or modify the right of any supervisor to assign, direct, and control the work of employes under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of similar kind or level of difficulty.

8. The current written position description for the position of Outreach Specialist - Project Talent Search is as follows:

MILWAUKEE AREA TECHNICAL COLLEGE
POSITION DESCRIPTION

<u>TITLE:</u> Outreach Specialist - Project Talent Search	<u>JOB CODE/SALARY CLASS CODE:</u> 543/009 <u>CABINET DIVISION:</u> Executive Vice President
<u>REPORTS TO:</u> Coordinator, Talent Search	<u>DIVISION:</u> Academic Affairs
<u>EFFECTIVE DATE OF DESCRIPTION:</u> September 11, 1991	<u>EEOC CLASS:</u> Professional
<u>EXEMPT/NON-EXEMPT STATUS:</u> Exempt	<u>JOB GROUP:</u> Professionals II
<u>SUPERVISORY RESPONSIBILITIES:</u> None	

NATURE OF WORK:

Under the supervision of the Coordinator, Talent Search, to develop and maintain working relationships with public and private schools, community based organizations, colleges and universities, and other social agencies that identify and locate out-of-school youth; to identify and enroll high school and college students in the program; to provide support services to students and their families through participation in support activities that establish bonding with the educational system; and to provide assessments and referrals to project participants by identifying options and services available for students including access to remedial education, rehabilitative services, guidance services, career counseling, and financial assistance. Work is generally diversified requiring judgement, analysis and decision-making according to established practices and procedures. Supervision received is general. Daily responsibilities are completed independently using established policies and general objectives with interaction with supervisor limited to problems or unusual conditions.

PRINCIPAL DUTIES AND RESPONSIBILITIES:

1. Establishes linkages with public high schools, private

- schools, VTAE schools, community based organizations, colleges and universities, and other social agencies to identify and enroll students in MATC programs.
2. Recruits and makes presentations to youth at various sites as necessary.
 3. Identifies and refers potential students to the various instructional resources, MPS, MATC, colleges, and various community based organizations, for participation in support activities geared toward establishing bonding between the school system, the youth and their parents, and toward raising the youth's self-esteem.
 4. Identifies and refers project participants who are in need of personal counseling, rehabilitative services, family services, career counseling and other support services; coordinates the administration and interpretation of individual assessment.
 5. Assists in the development of formal, individual educational and employment plans.
 6. Identifies instructional related support services offered through community service agencies and/or schools; makes referral of youth in need of these services.
 7. Conducts follow-up evaluations of all referred youth to assure matching with the proper learning, employment and post-secondary educational placement.
 8. Follows up on project participants as required; monitors programs which provide high school relations services in designated high schools.
 9. Establishes and develops follow up records as necessary; establishes and maintains student profiles, records, files, and other pertinent data on applicants, participants, rejects and other relevant or assigned information.
 10. Conducts in-service programs or workshops as required.
 11. Participates in meetings, workshops, seminars and other professional activities as required
 12. Performs related duties as required or assigned for the effective operation of the project.

QUALIFICATIONS

Requires a Bachelor's degree in education and two (2) years of successful teaching and/or advising of youth in a multi-cultural educational setting; or any equivalent combination of training and experience which provides the necessary knowledge, skills and abilities to include:

1. Knowledge and understanding of the public high school and the VTAE systems and other college and university systems.
2. Knowledge and understanding of the problems of obtaining financial aids.
3. Ability to establish and maintain effective working relationships with MATC staff, faculty, students, representatives from outside agencies and educational institutions, and the general public.
4. Ability to communicate effectively through both oral and written means.
5. Ability to work effectively with individuals from diverse educational and socioeconomic backgrounds.

This description has been prepared to assist in evaluating various classes of responsibilities, skills and working conditions. It indicates the kinds of tasks and levels of work difficulty required of positions given this classification. It is not intended to

limit or modify the right of any supervisor to assign, direct, and control the work of employes under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of similar kind or level of difficulty.

9. The current written position description for the position of Outreach Specialist - Partnership is as follows:

MILWAUKEE AREA TECHNICAL COLLEGE
POSITION DESCRIPTION

<u>TITLE:</u> Outreach Specialist - Partnership	<u>JOB CODE/SALARY CLASS CODE:</u> 543/009
<u>REPORTS TO:</u> Coordinator, Partnership Articulation Program	<u>CABINET DIVISION:</u> Executive Vice President
<u>EFFECTIVE DATE OF DESCRIPTION:</u> September 11, 1991	<u>DIVISION:</u> Academic Affairs
<u>EXEMPT/NON-EXEMPT STATUS:</u> Exempt	<u>EEOC CLASS:</u> Professional
<u>SUPERVISORY RESPONSIBILITIES:</u> None	<u>JOB GROUP:</u> Professionals II
<u>NATURE OF WORK:</u>	

Under the supervision of the Coordinator, Partnership Articulation Program, to develop and maintain working relationships with public and private schools, community based organizations, colleges and universities, and other social agencies. To provide support services to students and their families through participation in support activities that establish bonding with the educational system; and to provide assessments and referrals to project participants by identifying options and services available for students including access to college courses and career counseling. Work is generally diversified requiring judgement, analysis and decision-making according to established practices and procedures. Supervision received is general. Daily responsibilities are completed independently using established policies and general objectives with interaction with supervisor limited to problems or unusual conditions.

PRINCIPAL DUTIES AND RESPONSIBILITIES:

1. Establishes linkages with public with middle and high public schools, private schools, VTAE schools, community based organizations, and other social agencies to identify project students.
2. Recruits and makes presentations to youth at various sites as necessary.
3. Identifies and refers potential students to the various instructional resources, MPS, MATC, colleges, and various community based organizations, for participation in support activities geared toward establishing bonding between the school system, the youth and their parents, and toward raising the youth's self-esteem.
4. Identifies and refers project participants who are in need of personal counseling, rehabilitative services, family services, career counseling and other support services;

- coordinates the administration and interpretation of individual assessment.
5. Assists in the development of formal, individual educational and employment plans.
 6. Identifies instructional related support services offered through community service agencies and/or schools; makes referral of youth in need of these services.
 7. Conducts follow-up evaluations of all referred youth to assure matching with the proper learning, employment and post-secondary educational placement.
 8. Establishes and develops follow up records as necessary; establishes and maintains student profiles, records, files, and other pertinent data on applicants, participants, rejects and other relevant or assigned information.
 9. Conducts in-service programs or workshops as required.
 10. Participates in meetings, workshops, seminars and other professional activities as required
 11. Performs related duties as required or assigned for the effective operation of the project.

QUALIFICATIONS

Requires a Bachelor's degree in education and two (2) years of successful teaching and/or advising of youth in a multi-cultural educational setting; or any equivalent combination of training and experience which provides the necessary knowledge, skills and abilities to include:

1. Knowledge and understanding of the public high school and the VTAE systems and university systems.
2. Ability to travel throughout the district.
3. Ability to establish and maintain effective working relationships with MATC staff, faculty, students, representatives from outside agencies and educational institutions, and the general public.
4. Ability to communicate effectively through both oral and written means.
5. Ability to work effectively with individuals from diverse educational and socioeconomic backgrounds.

This description has been prepared to assist in evaluating various classes of responsibilities, skills and working conditions. It indicates the kinds of tasks and levels of work difficulty required of positions given this classification. It is not intended to limit or modify the right of any supervisor to assign, direct, and control the work of employes under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of similar kind or level of difficulty.

10. The Federation, contrary to the District, maintains that the Outreach Specialist positions described above are professional within the meaning of Sec. 111.70(1)(L) of the Municipal Employment Relations Act. The position descriptions contained in Findings of Fact 4-9 are accurate in all relevant respects. Projects Hold and Second Chance were instituted in 1988 and 1986, respectively. Since that time, the two projects have been succeeded by Projects Hold II and Second Chance II, but the qualifications, duties and responsibilities of the Projects' Outreach Specialists have not changed in any significant respect. The primary mission of both Hold Projects has been to

retain students in school. The primary focus of both Second Chance Projects is to return students to school. MATC employs certified counselors and Outreach Specialists are expected to refer students to certified counselors as they deem necessary. Karen Guzkowski, a certified Counselor in the District's Adult High School, authorizes student programs recommended by Outreach Specialists and recommends students for graduation. Joseph Pellegrin, the District's Dean of Community Education, Continuing Education and Business Outreach, was the District's Director of High School Relations from July, 1984 until April 1, 1992. As the Director of High School Relations, Pellegrin was responsible for Projects Hold and Second Chance. When he supervised Projects Hold and Second Chance, Pellegrin considered the District's testing center and the District's certified Counselors to have the responsibility to administer and interpret tests, including the GED, Asset, and TABE, and to make vocational assessments. Pellegrin and Maureen Coffey, an administrator of Projects Hold and Second Chance since 1986, have not expected the Outreach Specialists to administer and interpret tests. Coffey recognizes, however, that Outreach Specialists are able to, and do, administer the pre-GED test, which is available at the MATC bookstore, to determine whether it is reasonable to have a student attempt the GED. Pellegrin expected the Outreach Specialists to use student test results to determine the appropriate educational program and to counsel students on personal, academic, vocational and career choices. The District has a computerized academic plan which is used by Outreach Specialists to determine which courses need to be taken by students in Project Hold and Second Chance. The District has guidelines for using TABE test scores to determine the student's educational level. For example, a student must be functioning at an eighth grade level to go into the Adult High School. Students who are at a lower level are given basic skills at either MATC or community based organizations. Outreach Specialists, like Student Services Specialists, are not required to have any VTAE certification.

11. At the time of hearing, Robert Kurth was employed by the District as the Director of Student Services. Prior to assuming this position in November, 1991, Kurth was an Outreach Specialist in Project Hold. Kurth assumed this Outreach Specialist position on or about November, 1988. Prior to that time, Kurth worked as a teacher for the Milwaukee Public School System. At the time that Kurth became an Outreach Specialist, he possessed a BS Degree in Secondary Education and had completed approximately thirty graduate credits in counseling and education. While all of the Outreach Specialists have Bachelor Degrees, not all have degrees in education. Outreach Specialists are not required to have a teaching license, or certification, and do not have any continuing education requirements. While various District documents refer to the Outreach Specialists as "counselors", Outreach Specialists are not required to be certified as Counselors in the VTAE system and are not required to perform the duties of the certified Counselors employed by the District. The duties performed by Kurth as an Outreach Specialist are substantially the same duties which are performed by the Outreach Specialists in Project Second Chance. As an Outreach Specialist, Kurth was expected to do whatever was necessary to assist his students in the completion of their secondary education, including the application of any knowledge acquired through his secondary or vocational education. As an Outreach Specialist, Kurth assessed each student's school records, test scores, personal and family histories, and criminal record to determine why the student was not previously successful in completing secondary education and to determine the course of study which would most likely enable the student to complete his/her secondary education. After enrolling the student in the appropriate program, Kurth would monitor the student's progress, provide counseling on social, academic and behavioral problems which were adversely impacting upon the student's ability to complete the program, meet with the student's parents and teachers, provide information on career options and community services, assist students to obtain

transportation and employment, and recommend tutoring or other assistance to upgrade math, reading and language skills. When Kurth had students in Project Hold who had completed secondary education and wished to acquire a post-secondary education, Kurth would assist the students in selecting an appropriate program, enroll the student in the program, and monitor the student's progress for a period of six months. While the District has a testing facility which was responsible for administering and interpreting tests, at times Kurth, who had a stronger educational and counseling background than some of the other Outreach Specialists, would administer tests such as the TABE or the pre-G.E.D. Outreach Specialists in Project Hold and Second Chance were assigned a caseload by District management personnel and were evaluated on the basis of criteria determined by District management personnel, e.g., each was required to retain a designated percentage of students from one fiscal year to fiscal year; to maintain a designated completion rate; and to maintain a designated percentage of students who were actively enrolled in the program. A designated percentage of students were permitted to temporarily drop-out of school without being required to drop-out of the program.

12. At the time of hearing, Kevin Mulvenna had been employed as an Outreach Specialist for three years. When Mulvenna began his employment as an Outreach Specialist, he was in the Partnership Program. Mulvenna was assigned to work in public elementary and middle schools. Mulvenna worked with specific teachers and specific classes for the purpose of providing career education and motivating students to continue with their elementary and secondary education and encouraging matriculation into post-secondary education. Under the terms of the Partnership Program, Mulvenna was to perform his classroom work under the supervision of the public school teacher. When some of the public school teachers became aware that Mulvenna was a certified teacher, they chose to leave him unattended in the class room. On occasion, Mulvenna was asked to develop lessons to demonstrate how math or science courses were applicable to the "real world". Mulvenna, in consultation with the public school teacher, would determine the appropriate classroom activities for the Partnership Program. Fifty per-cent of Mulvenna's time in the Partnership Program was devoted to classroom activities and fifty per-cent was devoted to preparation.

13. The duties of the Outreach Specialists are predominantly intellectual and varied in character and involve the consistent exercise of discretion and judgment in their performance. The character of the work and the results accomplished cannot be standardized in relation to a given period of time and the positions require knowledge of an advanced type customarily acquired by a prolonged course of specialized intellectual instruction and studying in an institution of higher learning.

On the basis of the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSION OF LAW

The occupants of the position of Outreach Specialist are professional employes within the meaning of Sec. 111.70(1)(L), Stats.

On the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT 2/

2/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for

The positions of Outreach Specialist are hereby included in the professional bargaining unit described in Finding of Fact 3.

Given under our hands and seal at the City of Madison, Wisconsin this 7th day of January, 1993.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

1/ Continued

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all

judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

Continued

parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

MILWAUKEE AREA VOCATIONAL, TECHNICAL
AND ADULT EDUCATION DISTRICT

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSION OF LAW AND ORDER CLARIFYING
BARGAINING UNIT

POSITIONS OF THE PARTIES

FEDERATION

In a prior proceeding involving the same parties, the Commission relied upon a stipulation reached by the parties to direct an election. In this stipulation, the parties agreed that the position of "Outreach Specialist - Project Second Chance" was appropriately included in the professional unit represented by the Federation. Had the union won, rather than lost, the 1987 election, the positions now in dispute would have been in the professional bargaining unit for approximately five years. The Commission should either hold the District to its previous stipulation, or accord substantial evidentiary weight to it, or remand the matter to hearing for the purpose of determining whether circumstances changed in a material and relevant way from those that formed the basis for the prior stipulation.

Professional status is not limited to those employes who possess college degrees and is not determined solely on the basis of state certification and licensing. Rather, the criteria of Sec. 111.70(1)(L) 1, subparagraph d., is met if the knowledge required to meet the demands of the job is of the type customarily acquired through the instruction and study specified in 1.d.

In a prior case involving the parties, the Commission held that the Student Services Specialist III (Apprentice) was not professional, but that the Student Services Specialist III (Veteran's Affairs) was professional. 3/ The Commission based its decision on only one evident factual distinction, i.e., the educational requirements of the positions. The Commission also held that the Students Services Specialist I (Placement) was professional, but that the Student Recruiter was not. In another case between the same parties, the Commission held that the position of Coordinator - Student Affairs was not professional, but that the position of Supervisor, Student Publications was professional. 4/ Again, the Commission relied primarily, if not exclusively, upon the educational requirements of the position.

In the prior cases, the Commission found positions to be professional in the face of educational requirements less demanding than those of the Outreach Specialists. Comparison of the educational requirements of the professional positions of Student Services Specialist III (Veteran Affairs), Student Services Specialist I (Placement) and Supervisor, Student Publications, with the disputed positions in this case demonstrates that the disputed positions are professional.

Neither the Veterans Affairs position, nor the Outreach Specialist position, involves teaching, nor are they certified. The Outreach Specialists are indistinguishable from the Veterans Affairs position which the Commission

3/ Decision No. 6343-C (WERC, 11/81).

4/ Decision No. 6343-D (WERC, 10/89).

previously held to be professional.

Professional attorneys may be required to maintain a minimum caseload, to issue a written product within a certain period of time, and to bill a specific number of hours per year. Professional teachers and nurses may be required to maintain a certain teaching or patient load. Likewise, Outreach Specialists may be required to maintain minimum caseloads and to steward a minimum number of students to completion of the academic program. These standards, however, are not within the intent or meaning of "output produced" or "result accomplished" over a unit of time, as these phrases are used in subparagraph c. of Sec. 111.70(1)(L)(1), Stats.

In light of the stipulation that the Outreach Specialists are engaged in work which is predominantly intellectual and varied in character and which involves the consistent exercise of discretion and judgment in its performance, the District's assertion that the Outreach Specialist fail to meet criteria c. is incongruous. The District's assertion that advanced knowledge is not required of the job, or that knowledge required for the job is not customarily acquired through a specialized course of instruction, is erroneous.

The minimum educational requirements are set by the employer and it is reasonable to infer that the employer would require neither more, nor less, education than is necessary to perform the job. One may reasonably conclude that if the employer requires a certain level of education, then the knowledge imparted by the education is necessary to perform the duties of the job.

A BS in Vocational Educational or Secondary Education is one routinely recognized by the Commission, school districts and teachers' unions as meeting the criteria of Sec. 111.70(1)(L)1 c and d, Stats. An alternative which permits an applicant to be qualified if he or she holds the "equivalent" of the requisite professional educational requirement does not dilute the standards of knowledge required to perform the duties of the job. If an employe must possess experience and education which is the equivalent of a professional education, the employe possesses a professional education.

The Federation submits that it is virtually impossible for any applicant to have experience which is the equivalent of a degree in "Vocational Education" "Secondary Education" or "Education" without holding a Bachelors Degree. Apparently, the District considers "equivalent" to mean "different and less than" and considers a degree in Education, which degree forms the educational foundation for many professional teachers, to involve neither advanced knowledge, nor a prolonged course of specialized intellectual instruction.

Ms. Maureen Coffey, Administrator of Projects Hold and Second Chance, testified that all of the incumbents in the disputed positions hold Bachelors Degrees, although not all of them are "teachers." Mr. Pellegrin, Dean of Community Education, Continuing Education and Business Outreach, acknowledged that Outreach Specialists who do not hold a degree in Education would be required to apply knowledge gained through experience which is the equivalent of a Bachelor of Science in Education. Further, Mr. Pellegrin admits that the Outreach Specialists are required to use the knowledge acquired by their specialized course and instruction, i.e., a degree in "Education" or its equivalent, in the performance of their duties.

MATC's reliance on Milwaukee Public Schools, Dec. No. 25143, is misplaced in that the present facts demonstrate that a professional education or its equivalent is not coincidental, but rather, is required. MATC asserts that it

allows a broad range of degrees. The Federation submits that the range, which is defined as a degree in Vocational Education, Secondary Education or Education, is less than "a broad range."

Subsequent agreements between the Federation and the District to phase out the Student Services Specialist III position are irrelevant with respect to the application of the Commission's prior holdings to the facts of this case. The Outreach Specialist positions in dispute are "professional" within the meaning of Sec. 111.70(1)(L) Stats., and are appropriately included within the bargaining unit of professional employes currently represented by the Federation.

DISTRICT

The Outreach Specialists fail to meet the statutory criteria for professional employes because (1) the positions do not require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual study and (2) the work is not of such a character that the output produced cannot be standardized in relation to a given period of time.

There is no state certification requirement, no specialized course of study, and no continuing education requirement for the position of Outreach Specialist. While a degree in a specialized field, or lack thereof, is not considered conclusive, it is a significant indication of professional status.

Outreach Specialists are not required to have a Bachelor's Degree in Education and some Outreach Specialists have not possessed a Bachelor's Degree in Education when hired. Generally, Outreach Specialists do not possess the level of education obtained by Mr. Kurth. The fact that some individuals hold degrees in a related field of study does not mean that the positions at issue are professional within the meaning of MERA.

That advanced knowledge acquired through a degree may be used, as in Mr. Kurth's case, is not at issue. At issue is whether advanced knowledge is required for the job and, if it is, whether that knowledge is customarily acquired through a specialized course of instruction. Here it is not, as is illustrated by MATC's allowance of a broad range of degrees, and its allowance of an equivalent experience to substitute for a degree.

Outreach Specialists function in virtually the same capacity as many other para-professional classifications at MATC. For example, Educational Assistants or "Tutors", who are in a paraprofessional bargaining unit, work intensively with students and academic instruction. Student Service Specialists, who are paraprofessionals, advise students, monitor student progress, assist in student testing, and schedule students into classes. Student Service Specialists, like Outreach Specialists, refer students for specialized counseling as a part of their job description and may possess either a Bachelors Degree or an equivalent amount of training and experience to qualify them for the positions. Indeed, Federation representative Frank Shansky acknowledged the extent of similarities between the requirements, duties and qualifications of the two positions.

There are also striking similarities between the Outreach Specialists and the Coordinator of Student Affairs. In determining that the Coordinator of Student Affairs was non-professional, the Commission specifically noted that this position was an amalgam of Counselor, Administrator and Instructor.

Contrary to the assertion of the Federation, references to Outreach

Specialists as "Counselors" is not determinative of their statutory status. Counselors in the professional bargaining unit at MATC, unlike the Outreach Specialists, are subject to extensive state certification requirements, are required to have a Masters Degree in Guidance or Counseling and are subject to continuing education requirements to maintain certification.

The Commission has repeatedly held that prior stipulations of the parties involving unit determinations are not binding on the Commission. There is no basis for the Commission to deviate from its traditional view that prior stipulations do not bind the parties with respect to the statutory status of employees. In a collective bargaining relationship, parties enter into stipulations in a variety of settings and for a variety of reasons, strategic and otherwise. Moreover, there was no showing that the "Outreach Specialist - Project Second Chance", referred to in the stipulation relied upon by the Federation, is the same position which is currently in dispute.

The position of "Coordinator, Student Affairs" was also stipulated for inclusion into the professional bargaining unit in the prior case. Such a stipulation did not preclude the Commission from holding, in 1989, that the position did not qualify as professional. Additionally, the parties initially agreed to include the "Academic Support Specialist" and "Financial Aide Specialist" in the professional unit and, two years later, the parties stipulated their inclusion in the paraprofessional bargaining unit without a vote. The 1987 stipulation, relied upon by the Federation, is irrelevant.

The Federation's reliance on the accretion of Student Services Specialists III is misplaced. Those employees, while lacking state certification as Counselors, were required to have specialized educational requirements to perform their various functions. Moreover, the Federation and District have negotiated an agreement to phase out Student Service Specialists III's as they become certified as Counselors.

The District's professional Counselors do not have an assigned caseload and do not have an evaluation based on results achieved in that caseload. Outreach Specialists, however, are held to strict objective standards in that they are expected to achieve certain percentages of recruitment, retention and achievement among their caseloads.

It is undisputed that the work of the Outreach Specialist is diversified, intellectual and challenging. The work of the Outreach Specialist requires creativity, but the output of these employees can be, and is, standardized over a given period of time.

The Federation, relying almost entirely upon the testimony of Robert Kurth, attempts to find similarities between the Outreach Specialists and the positions which the Commission has previously held to be professional. MATC submits that it is inappropriate and misleading for the Federation to rely upon the anecdotal recitations of one uniquely qualified former Outreach Specialist in determining the statutory status of all of these individuals.

The Coordinator of Student Affairs refers students for counseling as needed, which is the identical language used in the Outreach Specialist - Project Hold job description. The educational requirements are also quite similar to the requirements for Outreach Specialists. These similarities also exist between the positions of Student Services Specialist and the Outreach Specialist - Project Hold.

The Outreach Specialist functions as a front line soldier in the war to eliminate high school dropouts. Given the varied qualifications required for

the position, including the fact that a Bachelor's Degree is not required, as well as the express requirement that these employes refer students to those professional counselors who are best equipped to deal with such issues, the Commission should conclude that, like Student Service Specialists and Coordinators of Student Affairs, the Outreach Specialists are paraprofessional employes.

DISCUSSION

As the Federation argues, in Milwaukee Area VTAE, Dec. No. 24485 (WERC, 5/87), the Commission relied upon a stipulation reached by the parties to direct an election. In this stipulation, the parties agreed that the position of "Outreach Specialist - Project Second Chance" was appropriately included in the professional unit represented by the Federation. Had the Federation prevailed in the election, the Outreach Specialist position would have been included in the professional bargaining unit represented by the Federation.

In Marinette County, Dec. No. 26675 (WERC, 11/90), the Commission was presented with a dispute concerning the professional/nonprofessional status of a position. In that case, the Commission, relying upon City of Sheboygan, Dec. No. 7378-A (WERC, 5/89), stated that when deciding statutory issues such as professional status, it was "not bound to decide the case consistent with the judgments of the parties as reflected by their prior actions", but rather, was "required to assess the position on the basis of the record evidence concerning the nature of the work involved." Applying this rationale to the present case, the Commission rejects the Federation's assertion that it is bound by any prior stipulation of the parties concerning the professional or nonprofessional status of any of the disputed positions.

Section 111.70(1)(L), Stats., defines the term "professional employe" as follows:

1. Any employe engaged in work:
 - a. Predominantly intellectual and varied in character as opposed to routine mental, manual, mechanical or physical work;
 - b. Involving the consistent exercise of discretion and judgment in its performance;
 - c. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;
 - d. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical process; or
2. Any employe who:
 - a. Has completed the courses of specialized intellectual instruction and study described in

subd. 1.d;

b. Is performing related work under the supervision of a professional person to qualify himself to become a professional employe as defined in subd. 1.

All of the criteria noted above must be present in order to find an employe to be professional. 5/ The above definition does not limit professional employes to those possessing college degrees 6/, or to those possessing specialized bachelor's degrees, and professional status is not determined solely on the basis of state certification and licensing. 7/ Whether a position meets the requirements of Sec. 111.70(1)(L)1.d. is determined by the work demands of the job and whether the knowledge required to meet those demands is of the type customarily acquired through the means specified in 1.d. 8/

At hearing, the parties stipulated that the duties and responsibilities of the Outreach Specialist meet the criteria of 111.70(1)(L)1, subparagraphs (a) and (b), Stats. The dispute centers on the issue of whether the duties and responsibilities of the positions in question meet the criteria of Sec. 111.70(1)(L)1, subparagraphs (c) and (d), Stats. 9/

As the District argues, the disputed positions do not have a state certification requirement or a continuing education requirement. However, neither the language of Sec. 111.70(1)(L), nor prior Commission decisions, warrants the conclusion that a continuing education requirement is determinative of professional status. Further, in prior cases, the Commission has given consideration to the existence, or non-existence, of a state certification requirement when determining whether a position is professional or non-professional, but has not found the absence of either a state license or certification to require a finding that a position is not professional. 10/

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- 4/ Milwaukee County, Dec. No. 14786-B (WERC, 4/80).
- 5/ Outagamie County (District Attorneys Office), Dec. No. 2143-A (WERC, 10/86).
- 6/ Kenosha Vocational, Technical and Adult Education District No. 6 (Gateway Technical Institute), Dec. No. 14381 (WERC, 3/76); City of Cudahy, Dec. No. 19507 (WERC, 3/82).
- 7/ Chippewa Valley Technical College, Dec. No. 22230-A (WERC, 5/88).
- 9/ The parties have agreed that if the Commission concludes that the positions are professional, then it would be appropriate to include these positions in the bargaining unit of professional employes represented by the Federation. The parties have also agreed that if the Commission concludes that the positions in dispute are not professional, then it would be appropriate to include the positions in the bargaining unit of para-professional employes represented by the Federation. The Federation, however, reserves the right to withdraw its Petition in the event that the Commission would decide that the Outreach Specialists are not professional employes.
- 10/ Blackhawk VTAE, Dec. No. 13460-A (WERC, 9/75); Waukesha VTAE, Dec. No. 13818 (WERC, 9/75).

The Outreach Specialist positions at issue are associated with various projects which are designed to attract students to and/or retain students in a variety of educational programs. As the Federation argues, many of the documents used by the District refer to the Outreach Specialists as "counselors". While the Outreach Specialists are expected to recognize when students require the skills of a certified counselor and to make referrals to certified counselors as they deem necessary, the Outreach Specialists are not certified counselors and are not expected to provide the counseling which is provided by the District's certified Counselors.

The primary mission of the Project Hold and Second Chance Outreach Specialists is to provide the support and assistance which the Outreach Specialist determines would best enable the student to complete the program. 11/ Project Hold and Second Chance Outreach Specialists have been expected, and continue to be expected, to judge the educational progress of their students; determine an appropriate course of study; identify academic, personal and social problems which adversely impact upon the student's ability to successfully complete the program; and either provide advice on the student's academic, personal and social problems, or refer the student to another resource, such as a certified Counselor or a tutor. As reflected in their position descriptions, Outreach Specialists in Projects Hope, Technical Educational Development, and Talent Search perform work which is similar to that performed by the Outreach Specialists in Projects Hold and Second Chance.

Outreach Specialists in the Partnership Program work in classrooms which are located in the public school systems. Working under the supervision of a public school teacher, the Outreach Specialist develops classroom curriculum and provides classroom instruction designed to provide career education and to motivate students to complete their primary and secondary educations, as well as to encourage students to consider post-secondary education.

While the target groups and educational programs vary from project to project, the Outreach Specialists perform many of the same functions, i.e., develop and maintain working relationships with public and private schools, community based organizations, and other social agencies; provide support services to students and their families through participation in support activities that establish bonding with the educational system; and provide assessments and referrals to project participants by identifying options and services available. Depending upon the project, the available options and services could include adult vocational courses, high school equivalency, General Education Development, basic education, career counseling, remedial education, rehabilitative services, guidance services, and financial assistance.

All of the disputed positions require either a Bachelor's Degree in an area of Education and two years of successful teaching and/or advising of adolescents or youth in a multi-cultural educational setting; or any equivalent combination of training and experience which provides, inter alia, knowledge and understanding of school systems; the ability to establish and maintain

11/ As Joseph Pellegrin, Dean of Community Education, Continuing Education, and Business Outreach, stated at hearing, Projects Hold and Second Chance have been replaced by Projects Hold II and Second Chance II. It is evident, however, that the primary focus of Hold continues to be to retain students in school and the primary focus of Second Chance continues to be to return students to school.

effective working relationships with MATC staff, faculty, students, representatives from outside agencies and educational institutions, and the general public; the ability to communicate effectively through both oral and written means; and the ability to work effectively with individuals from diverse educational and socioeconomic backgrounds. 12/

The work demands of the Outreach Specialists and the knowledge required to meet those demands are similar to those which are required of teachers in the State public school systems. The Commission is satisfied that the Outreach Specialists are engaged in work which requires the knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical process.

Outreach Specialist positions in Projects Hold and Second Chance have been subject to performance appraisals by District supervisors. In conducting these performance appraisals, the supervisors apply criteria established by the District. For example, the District has required the Outreach Specialists to maintain a designated caseload, retain a designated percentage of that caseload, and ensure that a designated percentage of that caseload successfully complete the program. Despite the District's argument to the contrary, the fact that the District has developed objective criteria to evaluate the performance of Outreach Specialists does not demonstrate that the work of the Outreach Specialist is "of such a character that the output produced or the result accomplished" can be "standardized in relation to a given period of time." The Commission is satisfied that the Outreach Specialists are called upon to identify the individual needs of students and to determine on an individual, rather than a standardized basis, the District and community assistance which is needed to ensure that students successfully complete the program for which the Outreach Specialist is responsible.

The position description of the Coordinator - Student Affairs, relied upon by the Commission in Dec. No. 6343-D to conclude that the Coordinator - Student Affairs was not professional, required " a Bachelor's degree in Education, Counseling or Human Resources and considerable experience in student leadership programs; or any equivalent combination of experience and training which provides the necessary knowledge, abilities and skills to include:

1. Knowledge of the functions and goals of a student activities program.
2. Ability to organize, plan, develop and edit various student publications.
3. Ability to organize, plan and execute student programs in an independent manner.
4. Ability to communicate effectively through both oral and written means.
5. Ability to establish and maintain effective working relationships with staff, faculty, students, and general public. and the Outreach Specialist positions in dispute.

The Outreach Specialists not only have the requirement of a Bachelor's

12/ While all of the Outreach Specialists have at least a Bachelor's Degree, not all have a degree in Education.

degree in an area of Education, but also have the requirement of "two years teaching and/or advising" in a "multi-cultural educational setting." While there is some similarity between the duties and responsibilities of the Outreach Specialists and the Coordinator - Student Affairs, the record presented in the prior case does not establish that the Coordinator - Student Affairs provides the academic and personal counseling which are provided by the Outreach Specialists. The Commission is satisfied that the work of the Outreach Specialists, unlike that of the Coordinator - Student Affairs, requires knowledge which is "customarily" acquired through a specialized degree program.

We acknowledge our past decisions in which we found several other positions disputed by the parties were not professional. The position of Student Services Specialist III (Apprentice) was determined not to be professional in part because the position required an Associate Degree, in Applied Science in an apprenticeable area and seven years experience in an apprenticeable occupation. 13/ We reached the same conclusion regarding a Native American Specialist position in part because the position only required college graduation without reference to specialized educational needs. 14/ We concluded in both cases that the knowledge required for the positions was not "customarily acquired" through a specialized degree program.

However, in our view, our conclusion that the Outreach positions are professional is consistent with other decisions involving the parties. The Commission concluded that the Student Services Specialist III (Veteran's Affairs) was a professional position in part because the position required a Bachelor's Degree in guidance, psychology, or a related area. 15/ We also concluded that the Supervisor - Student Publications was professional in part because a Bachelor's Degree in Graphic Arts, Journalism or a related area was required. 16/ The knowledge required for these positions was "customarily acquired" through a specialized degree program.

It is not evident that the Commission has ever ruled on the issue of whether the Student Services Specialist position relied upon by the Employer is professional. 17/ Accordingly, whatever similarities may or may not exist between the position descriptions of the Outreach Specialists and the Student Services Specialist relied upon by the Employer, the fact that this Student Services Specialist position is in the nonprofessional unit represented by the Federation is not relevant to the determination of the instant dispute.

13/ Dec. No. 6343-C (WERC, 11/81).

14/ Dec. No. 8736-B, 16507-A (WERC, 10/79).

15/ Dec. No. 6343-B (WERC, 11/81).

16/ Dec. No. 6343-D (WERC, 10/81).

17/ Employer's Exhibit #26.

In summary, the Commission is satisfied that the work of the Outreach Specialists in dispute meets the requirements of Sec. 111.70(1)(L)1, Stats. Having concluded that the Outreach Specialists are professional employes within the meaning of the Municipal Employment Relation Act, the Commission has included the Outreach Specialists in the collective bargaining unit of professional employes which is represented by the Federation.

Dated at Madison, Wisconsin this 7th day of January, 1993.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner