

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS BOARD

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In the Matter of the Petition of :

JOINT SCHOOL DISTRICT NO. 10 OF THE CITY :
OF APPLETON, OUTAGAMIE & CALUMET COUNTIES, :
TOWNS OF GRAND CHUTE AND BUCHANAN, OUTA- :
GAMIE COUNTY AND TOWN OF HARRISON, CALUMET :
COUNTY, AND PART OF TOWN OF MENASHA, :
WINNEBAGO COUNTY :

Involving Employes of :

JOINT SCHOOL DISTRICT NO. 10 OF THE CITY :
OF APPLETON, OUTAGAMIE & CALUMET COUNTIES, :
TOWNS OF GRAND CHUTE AND BUCHANAN, OUTA- :
GAMIE COUNTY AND TOWN OF HARRISON, CALUMET :
COUNTY, AND PART OF TOWN OF MENASHA, :
WINNEBAGO COUNTY :

Case I
No. 10217 ME-186
Decision No. 7151

-----:
DIRECTION OF ELECTION

Joint School District No. 10 of the City of Appleton, Outa-
gamie & Calumet Counties, Towns of Grand Chute and Buchanan, Outa-
gamie County and Town of Harrison, Calumet County, and Part of Town
of Menasha, Winnebago County having petitioned the Wisconsin
Employment Relations Board to conduct an election pursuant to
Section 111.70 of the Wisconsin Statutes among the teachers in its
employ, to determine whether said employes desired to be represen-
ted by the Appleton Education Association or the Appleton Teachers
Union for the purposes of conferences and negotiations with the
Municipal Employer on questions of salaries, hours and conditions
of employment; and a hearing on such petition having been conducted
at Appleton, Wisconsin on May 4, 1965, by James L. Greenwald,
Examiner; and the Board having considered the evidence and being
satisfied that a question has arisen concerning representation for
certain teaching employes of the Municipal Employer;

NOW, THEREFORE, IT IS

DIRECTED

certified teaching personnel employed by Joint School District No. 10, of the City of Appleton, et al, including guidance counsellors, traveling teachers, elementary consultants, librarians, psychologists, attendance officer, audio visual coordinator, teaching vice principals, but excluding principals, elementary and secondary coordinators, Director of Business Affairs, social workers, nurses, dental hygienists, Senior High School Vice Principal, Superintendent and administrators, who, by April 16, 1965, have accepted their teaching contracts for the 1965-1966 school year, regardless of whether they are presently employed by said Municipal Employer, except such individuals as may prior to the election terminate their 1965-1966 school contracts, or unless, prior to the election, their 1965-1966 contracts are terminated for cause by the Municipal Employer, to determine whether the majority of such employes desire to be represented by the Appleton Education Association, or by the Appleton Teachers Union, or by neither, for the purposes of conferences and negotiations with the above named Municipal Employer on questions of salaries, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 17th day of May, 1965.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By

Morris Slavney  
Morris Slavney, Chairman

Arvid Anderson  
Arvid Anderson, Commissioner

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

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MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

During the course of the hearing an issue arose concerning whether a social worker, a dental hygienist and four nurses shall be eligible to participate in the election. The Appleton Teachers Union contends such employees are not teachers and should be ineligible. On the other hand, the Appleton Education Association and the School District contend that these employees work directly with students in support of the educational program and, therefore, should be eligible to participate in the election. The Board has conducted representation elections among teaching personnel employed by School Districts on the basis that teaching personnel constitute a recognized profession which can be considered in the same manner as a "craft" under Section 111.70 and 111.05, Wisconsin Statutes. Accordingly, the Board has included in units consisting primarily of classroom teachers employees, who do not engage in classroom teaching, but who possess teaching certificates evidencing a background in education and who work with students or teachers in a non-supervisory capacity in support of the educational program.<sup>1/</sup> Under this general policy, the Board

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<sup>1/</sup> Janesville Board of Education, Dec. No. 6678, 3/64.

has included an employe possessing a teacher's certificate who occupied the position of social worker and counselor, a position which was sometimes known as the truant officer in a bargaining unit consisting by and large of classroom teachers.<sup>2/</sup> In the instant case, all of the incumbents of the positions in dispute lack a teacher's certificate. The nurses and the dental hygienist are all registered nurses and primarily engaged in performing nursing and other specialized services for students and only occasionally engage in classroom teaching on their specialty. These five employes have backgrounds in nursing rather than in education. Similarly, the social worker lacks the credentials of a member of the education profession and is more properly regarded as being engaged in social work. We, therefore, conclude that the social workers, the dental hygienist and nurses are ineligible to participate in the election.

In addition, an issue arose concerning the criteria for eligibility. The Teachers Union contends that the Board should continue the policy adopted in Jt. School District No. 1, City of Ashland<sup>3/</sup> of restricting eligibility in any election which is to be conducted near the close of the school year to those teachers who have accepted teaching contracts for the forthcoming school year and who present themselves in person at the polling place at the time of the election. The Education Association and the School District contend that only teaching personnel currently employed by the School District should be eligible to participate in the election. However, the School District, in the alternative, urges that in the event a contract requirement is adopted that the Board should permit those teachers under contract, who by reason of present residence outside the School District or for other good reason would be unable to appear at the polls, to vote by mail ballot.

In support of their view, the Education Association and the School District argue that, under the Ashland Case, two groups of teaching personnel are disenfranchised. The first group consists of those teachers currently employed, who have not signed teachers contracts for the ensuing school year, and the second group consists of those teachers who do have contracts but who, for want of mail ballots, will be unable to exercise their right to vote.

In Jt. School District No. 1, City of Ashland, the Board considered the matter of the eligibility of teachers to participate in

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<sup>2/</sup> Joint School District No. 1, West Allis - West Milwaukee, Dec. No. 6677, 3/64.

<sup>3/</sup> Dec. No. 7090, 4/65.

a representation election which the Board would conduct following the expiration of the teacher-contract deadline date. Teachers who, at the time of the election, have not renewed their contracts with the school district involved, do not have a substantial interest in any future employment with said school district, and therefore should not be permitted to participate in the selection of the bargaining representative, for, if the bargaining representative is selected, it will engage in conferences and negotiations with the school district on conditions of employment which will not affect those teachers who have failed to renew their teaching contracts.

Newly contracted teachers will be affected by conditions of employment which may be negotiated during the term of their teaching tenure and, while not actively employed by the school district at the time of the election, they certainly have an interest in their employment during the period covered by their teaching contract. To deny newly contracted teachers the opportunity to vote would deprive them of a voice in the choice of their bargaining representative. Newly contracted teachers have the right to vote. However, the Board, because of various considerations, including those affecting the Board's budget, has determined that it will not provide mail ballots for those newly contracted teachers who might find it inconvenient to vote because they reside a distance from the polls.

Dated at Madison, Wisconsin, this 17th day of May, 1965.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By

Morris Slavney  
Morris Slavney, Chairman

Arvid Anderson  
Arvid Anderson, Commissioner

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

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CERTIFICATION OF REPRESENTATIVES

Pursuant to a Direction of Election made by the Wisconsin Employment Relations Board in the above entitled case, the Board conducted an election pursuant to Section 111.70 of the Wisconsin Statutes. The purpose of the election was to determine whether a majority of the eligible employees of the above named Municipal Employer in the collective bargaining unit set forth in the Board's Direction desired to be represented by Appleton Education Association, by Appleton Teachers Union, or by neither, for the purposes of conferences and negotiations with the above named Municipal Employer on questions of wages, hours and conditions of employment.

The result of the election was as follows:

1. Total number eligible to vote.....	429
2. Total ballots cast.....	355
3. Total valid ballots counted.....	355
4. Ballots cast for Appleton Education Association	252
5. Ballots cast for Appleton Teachers Union.....	101
6. Ballots cast for neither.....	2

NOW, THEREFORE, by virtue of and pursuant to the power vested in the Wisconsin Employment Relations Board by Section 111.70 of the Wisconsin Statutes;

No. 7151

IT IS HEREBY CERTIFIED that Appleton Education Association has been selected by a majority of the eligible employees of Joint School District No. 10, of the City of Appleton, et al, who voted at said election in the collective bargaining unit consisting of all regular full-time and regular part-time certified teaching personnel employed by Joint School District No. 10, of the City of Appleton, et al, including guidance counsellors, traveling teachers, elementary consultants, librarians, psychologists, attendance officer, audio visual coordinator, teaching vice principals, but excluding principals, elementary and secondary coordinators, Director of Business Affairs, social workers, nurses, dental hygienists, Senior High School Vice Principal, Superintendent and administrators, as their representative, and that pursuant to the provisions of Section 111.70 of the Wisconsin Statutes, said Organization is the exclusive collective bargaining representative of all such employees for the purposes of conferences and negotiations with the above named Municipal Employer, or its lawfully authorized representatives, on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 15th day of June, 1965.

WISCONSIN EMPLOYMENT RELATIONS BOARD

By Thomas Slavney  
Morris Slavney, Chairman

Arvid Anderson  
Arvid Anderson, Commissioner

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