#### STATE OF WISCONSIN

## BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

WISCONSIN COUNCIL OF COUNTY AND MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO LOCAL 1947-B

Involving Employes of

COMMON SCHOOL DISTRICT, JOINT NO. 1, CITY OF TOMAH, ET AL

Case I

No. 11693 ME-337 Decision No. 8209-C

## ORDER CLARIFYING COLLECTIVE BARGAINING UNIT

Local 1947-B, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission requesting a determination regarding the inclusion or exclusion of certain bus maintenance men and para-professional employes or teacher aides in an existing certified collective bargaining unit consisting of all regular full-time and regular part-time employes, including custodial employes, bus drivers, clerical employes, school luncheon program employes, but excluding supervisory employes, confidential employes, temporary employes, and teaching personnel, employed by Joint School District No. 1, City of Tomah, et al; and a hearing on such petition having been held at Tomah, Wisconsin, on February 2, 1972, before George R. Fleischli, Hearing Officer; and the Commission having considered the evidence and arguments of the Petitioner and said Municipal Employer, and being fully advised in the premises;

NOW, THEREFORE, it is

# ORDERED

That the positions of bus maintenance man, clerical aide and paraprofessional employe or teacher aide are hereby to be included in the existing certified collective bargaining unit consisting of all regular full-time and regular part-time employes including custodial employes, bus drivers, clerical employes, school luncheon program employes, but excluding supervisory employes, confidential employes, temporary employes, and teaching personnel employed by Joint School District No. 1, City of Tomah, et al.

Given under our hands and seal at the City of Madison, Wisconsin, this And day of March, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slawney, Chairman

Let S. Rice II, Commissioner

No. 8209-C

Kerkman, Commissioner

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# MEMORANDUM ACCOMPANYING ORDER CLARIFYING COLLECTIVE BARGAINING UNIT

Pursuant to a Direction of Election and election conducted by the Wisconsin Employment Relations Commission, the Petitioner was certified on November 30, 1967 as the exclusive bargaining representative of all regular full-time and regular part-time employes, including custodial employes, bus drivers, clerical employes, school luncheon program employes, but excluding supervisory employes, confidential employes, temporary employes, and teaching personnel, employed by Joint School District No. 1, City of Tomah, et al. Since that election the Municipal Employer has hired three bus maintenance men and twelve para-professional employes or teacher aides. The Petitioner seeks an order clarifying the bargaining unit to include the bus maintenance men and para-professional employes or teacher aides in the certified unit.

At the hearing the Municipal Employer indicated that it had no objection to the inclusion of the bus maintenance men in the existing collective bargaining unit. With regard to the para-professional or teacher aides the Municipal Employer contends that said employes have a community of interest more akin to teaching personnel and should not be included in the existing unit of non-professional employes.

It appears that the bus maintenance men share a substantial community of interest with the other employes currently included in the certified bargaining unit, and on that basis the Commission has ordered that they be so included.

The primary duties of the para-professional employes or teacher aides 1/ consist of performing such clerical tasks as mimeographing,

The Municipal Employer uses the terms para-professional employes and teacher aides interchangeably to describe non-professional employes who perform duties in support of the educational program in order to relieve the professional employes of certain routine, repetitive and time consuming duties. The employes involved have not completed a course of specialized, intellectual instruction necessary to become a professional employe and therefore do not qualify as professional employes within the meaning of Section 111.70(1)(L)2.

typing, and recordkeeping and they spend a majority of their time performing such work. In addition, said employes spend some of their time monitoring students in the classroom, in the lunchroom and on the playground.

One of the para-professional employes or teacher aides was hired pursuant to a federal employment opportunity grant and receives an hourly rate of compensation less than the other para-professionals in accordance with the terms of the federal grant. Even so this employe was hired by the School District, may be terminated by the School District and is subject to their direction and control during her tenure.

Another of the employes involved referred to as a "clerical aide" by her superiors, is employed at the Wyeville Grade School, and has duties which consist primarily of acting as receptionist and office clerical, and do not include regular contact with students.

Some of the para-professional employes or teacher aides attended a six-week summer course conducted by the University of Wisconsin for the purpose of preparing them for their duties, however, they are not required to have any college credits. They are compensated at an hourly rate of pay similar to that paid office clerical employes and receive two paid holidays. Their compensation and fringe benefits do not resemble the compensation and fringe benefits enjoyed by the professional employes.

The one para-professional employe who was hired pursuant to the federal employment opportunity grant is an employe of the School Board whose wages, hours and working conditions are similar to the rest of the para-professional employes to the extent that they are not controlled by the terms of the agreement with the federal government. It is clear that the duties of the "clerical aide" working in the Wyeville Grade School are no different than the other clerical employes and she is therefore included in the existing collective bargaining unit which includes "clerical employes".

The Commission has never faced the question of whether paraprofessional employes or teacher aides working for a school district should be included or excluded in a collective bargaining unit of non-professional employes which includes clerical employes. The Petitioner contends that the nature of the duties performed by these employes is essentially clerical and that it would be inappropriate to require them to bargain separately from the other clericals as requested by the Municipal Employer.

The Commission is satisfied that the wages, hours and working conditions and the duties performed by the para-professional employes and teacher aides employed by the Municipal Employer are not sufficiently unique to justify the creation of a separate bargaining unit to represent them. 2/ Most of the duties performed by the para-professional employes are clerical in nature and their wages, hours and working conditions indicate that they have a community of interest with the clerical employes.

The Commission has been mandated by the Legislature to "avoid fragmentation by maintaining as few units as practicable" under the Municipal Employment Relations Act as amended. Section 111.70(4)(d)2.

Based on the above and foregoing the Commission has concluded that the bus maintenance men, the clerical aide and the para-professional employes or teacher aides employed by the Municipal Employer are included in the existing non-professional collective bargaining unit currently represented by the Petitioner.

Dated at Madison, Wisconsin, this 23rd day of March, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Morris Stevney, Chairman

Zel S. Rice II, Commissioner

Jos. B. Kerkman, Commissioner