

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:
MILWAUKEE AREA TECHNICAL COLLEGE	:
FACULTY ASSOCIATION	:
Involving Certain Employees of	:
DISTRICT 9 AREA BOARD OF VOCATIONAL,	:
TECHNICAL & ADULT EDUCATION	:
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Case XII  
No. 13649 ME-544  
Decision No. 9629-B

ORDER DETERMINING CHALLENGED BALLOTS

Pursuant to a Direction of Election issued by it, the Wisconsin Employment Relations Commission conducted an election at Milwaukee, Wisconsin, on May 21, 1970, pursuant to Section 111.70, Wisconsin Statutes, to determine whether all regular full-time teaching personnel and all regular part-time teaching personnel having a 50% or more teaching load, in the employ of District 9 Area Board of Vocational, Technical & Adult Education, Milwaukee, Wisconsin, but excluding teaching personnel having less than a 50% 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, to determine whether a majority of such employes desired to be represented for the purposes of conferences and negotiations on wages, hours and working conditions by Milwaukee Area Technical College Faculty Association, or by Milwaukee Vocational Teachers Union, Local 212, AFT, AFL-CIO, or by neither of said organizations; and that during the conduct of the election the ballots of thirty-three individuals, who presented themselves to vote, were challenged, ten having been challenged on the basis that the individuals involved were neither regular full-time nor regular part-time teaching personnel having a 50% or more teaching load, and the remaining twenty-three individuals, who occupied positions of Guidance Counselors, Special Service Counselors, Placement Co-ordinators and Co-ordinators, were challenged on the basis that they were not included in the bargaining unit involved in the election; and the initial tally of ballots having indicated that said challenges might affect the results of the election, the Commission conducted a hearing on said challenges at Milwaukee, Wisconsin, on June 4, 1970, Chairman Morris Slavney and Commissioner Zel S. Rice II being present; and the Commission having considered the evidence and arguments of Counsel, and being satisfied that all thirty-three challenges be sustained;

NOW, THEREFORE, it is

ORDERED

That the challenges to the ballots attempted to be cast in the election conducted in the above entitled matter by Rita Christ, Lester Gierach, Ann Jorski, Gerold Lex, Rose Mayer, Marjorie Plapp, Frank Schmerda, Mary Sheridan, Sudie Tatum and Thomas Turcin be, and the same hereby are, sustained on the basis that said individuals were neither regular full-time nor regular part-time teachers having a 50% or more teaching load; and, further, that the ballots attempted to be cast by Harold Besette, Gayley Bonnell, Richard Borowski, Robert Braun, Beatrice Burany, J. H. Gardiner, Wyone Haase, Betty Havens, Dorothy Hogan, Howard Kerpestein, Victor Langer, Clifford Lassman, Spiro Mehail, Edward Nowicki, Harriet Pinch, W. Privatt, Carl Powell, Dennis Redovich, Edward A. Rivers, Thomas Roberts, Gerald Rose, Sigmund Warda and Francis Zvolanek, be, and the same are hereby sustained on the basis that said individuals were occupying classifications excluded from the eligibles in the appropriate bargaining unit involved herein.

Given under our hands and seal at the City of Madison, Wisconsin, this 13<sup>th</sup> day of July, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slawney  
Morris Slawney, Chairman

J. S. Rice  
J. S. Rice II, Commissioner

STATE OF WISCONSIN

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In the Matter of the Petition of :  
MILWAUKEE AREA TECHNICAL COLLEGE :  
FACULTY ASSOCIATION : Case XII  
Involving Certain Employees of : No. 13649 ME-544  
DISTRICT 9 AREA BOARD OF VOCATIONAL, : Decision No. 9629-B  
TECHNICAL & ADULT EDUCATION :  
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MEMORANDUM ACCOMPANYING  
ORDER DETERMINING CHALLENGED BALLOTS

On May 14, 1963, the Commission<sup>1/</sup> issued a Direction of Election wherein it directed elections in a voting group consisting of all regular teaching personnel of the Employer,<sup>2/</sup> teaching at least 50% of a full teaching schedule, excluding teaching personnel teaching less than 50% of a full teaching schedule, special service counselors, associate faculty counselors, faculty counselors, administrative counselors, office and clerical employes, and all other employes, supervisors and executives, for the purpose of determining (1) whether or not a majority of such employes desired to constitute themselves a separate collective bargaining unit, and (2) whether or not said employes desire to be represented for the purposes of conferences and negotiations on questions of wages, hours and working conditions by Milwaukee Vocational Teachers Union Local 212, AFT, AFL-CIO, or by Milwaukee Vocational and Adult Schools Education Association, affiliated with the Wisconsin Education Association, or by neither of said organizations. Such elections resulted in the establishment of a separate collective bargaining unit in said voting group and the selection of the Milwaukee Vocational Teachers Union Local 212, AFT, AFL-CIO, as their bargaining representative.

On March 27, 1970, the Milwaukee Area Technical College Faculty Association<sup>3/</sup> filed a petition with the Commission requesting an election among the following employes in the employ of the Employer:<sup>4/</sup>

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- <sup>1/</sup> Then known as the Wisconsin Employment Relations Board.  
<sup>2/</sup> Then known as the Milwaukee Board of Vocational and Adult Education.  
<sup>3/</sup> The successor to the Milwaukee Vocational and Adult Schools Education Association.  
<sup>4/</sup> Now known as District 9 Area Board of Vocational, Technical & Adult Education.

"All regular full-time teaching personnel and all regular part-time teaching personnel having a 50% or more teaching load, including guidance counselors and special service counselors; and excluding teaching personnel having less than a 50% load, supervisory personnel such as deans, assistant directors, and all other administrative personnel."

Hearing on said petition was held on May 1, 1970. It should be noted that the unit claimed to be appropriate by the Association in its petition, in addition to teachers, included Guidance Counselors and Special Service Counselors, and during the course of the hearing the Association also desired to include Placement Co-ordinators and Co-ordinators. Such desired unit would have enlarged the existing collective bargaining unit, which consisted of only teaching personnel teaching at least 50% of a full teaching schedule. Milwaukee Vocational Teachers Union Local 212, AFT, AFL-CIO, hereinafter referred to as Local 212, AFT, was permitted to intervene on the basis that it was the certified collective bargaining representative of the teachers teaching at least 50% of a full teaching load. Both the Employer and Local 212, AFT, opposed the expansion of the existing unit to include the Special Service Counselors, Guidance Counselors, Placement Co-ordinators and Co-ordinators. During the course of the hearing, and in order to expedite the conduct of the election prior to the end of the school year early in June 1970, the parties stipulated that the unit, for the purposes of the election, should be described as follows:

"All regular full-time teaching personnel and all regular part-time teaching personnel having a 50% or more teaching load, but excluding teaching personnel having less than a 50% 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,"

with the understanding that the individuals occupying the classifications of Special Service Counselors, Guidance Counselors, Placement Co-ordinators and Co-ordinators, if they appear at the polls to vote, would be permitted to vote, subject to challenge by Local 212, AFT, or the Employer, on the basis that the individuals occupying such classifications should be "excluded for one or more reasons that they are administrators, managerial, confidential or supervisory . . . ."

It was further stipulated that the description of the unit, as set forth in the Direction, was solely for the purpose of expediting the conduct of the election and that by agreeing to said description none of the parties waived any right to claim, after the election, that the description could be amended.

The tally of ballots executed immediately following the close of the balloting was as follows:

1. Claimed Eligible To Vote . . . . .	505
2. Ballots Cast . . . . .	474
3. Ballots Challenged . . . . .	33
4. Ballots Void . . . . .	0
5. Ballots Blank . . . . .	0
6. Valid Ballots Counted . . . . .	441
7. Ballots Cast For The Association . . . . .	206
8. Ballots cast For The Union . . . . .	225
9. Ballots Cast For Neither . . . . .	10

It is to be noted that the challenged ballots affected the result of the election. Therefore, the Commission conducted a hearing to take evidence with regard to the challenges. Evidence was taken with regard to ten of the challenges which involved the issue as to whether the individuals casting said ballots were regular full-time or regular part-time teachers teaching at least 50% of a full teaching schedule. With respect to said ten challenges the Commission is satisfied that the individuals involved are not regular full-time or regular part-time teachers teaching at least 50% of a full teaching schedule, and, therefore, the challenges to the ballots of said ten individuals are sustained.

The Association's position with respect to the twenty-three challenged ballots is that they should be overruled and that the ballots be included in the final tally of ballots. The Association contended that the individuals occupying the positions involved were engaged in the educational process and therefore could properly be included in the bargaining unit consisting of classroom teachers and in support thereof, the Association cited the Commission's decision rendered in Janesville Board of Education (6678) 3/64, wherein the Commission stated that individuals possessing teacher certificates, evidencing a background in education and who work with students or teachers in a non-supervisory capacity in support of the educational program will be included in a unit consisting of primarily classroom teachers.

Local 212, AFT, and the Employer contend that the challenges should be sustained, for the reason that to overrule said challenges would, in fact, result in amending the existing collective bargaining unit which had been established originally in 1963 in a self-unit determination election limiting the unit to classroom teachers teaching more than a 50% teaching schedule.

Had not the time factor with respect to the conduct of the election been involved in this proceeding, the proper procedure, since Local 212, AFT, and the Employer took the position that the unit should remain as originally established, would have been to conduct another unit vote among the classroom teachers to determine whether they still desired to constitute a unit separate and apart from the other teachers, as well as the four classifications involved in the challenges.


Because of the apparent misunderstanding as to the effect of the challenges and because of the fact that the existing unit had been established by a self-determination of teachers only, the Commission, as announced at the hearing on the challenges, hereby sustains the challenges to the ballots, and has today issued a Certification containing the final tally of ballots, which indicates that a majority of the employes in the unit selected Local 212, AFT, as their bargaining representative.

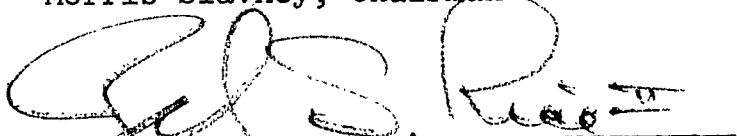
However, as announced at the hearing on the challenges, the Association is not precluded from timely filing a new petition, if it so desires, in 1971. If Local 212, AFT, and the Employer enter into a collective bargaining agreement for more than one year's duration, said agreement will not bar the processing of a petition filed by the Association in 1971. Should Local 212, AFT, and the Employer enter into an agreement for a one year term and the Association be successful in the election if one is held, then upon certification the Association will administer the existing collective bargaining agreement to the end of its one year term. If Local 212, AFT, and the Employer enter into a two year agreement and if the Association is successful in an election held during the first year of the agreement, the Association will administer the collective bargaining agreement for the remainder of its first year term. However, the second year of that agreement will fall, as will any other term exceeding one year.

Dated at Madison, Wisconsin, this 13<sup>th</sup> day of July, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Zel S. Rice II, Commissioner