

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case I  
No. 13778 ME-557  
Decision No. 9989

11/70

Mr. Roger Bergh, President, appearing on behalf of the Petitioner.  
Mr. Richard Galstad, Chairman, and Mr. Henry G. Anderson,  
Coordinator, appearing on behalf of CESA #6.

Speech Clinicians of CESA #6, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of Cooperative Educational Service Agency #6; and a hearing on such petition having been conducted at Chippewa Falls, Wisconsin, on July 8, 1970, before Herman Torosian, Examiner; and the Commission having considered the petition and the record, and being satisfied that questions have arisen concerning the representation of certain employees of Cooperative Educational Service Agency #6;

DIRECTED

Given under our hands and seal at the  
City of Madison, Wisconsin, this 3rd  
day of November, 1970.

By Morris Slanev, Chairman

Lel S. Rice II, Commissioner

No. 9989

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

SPEECH CLINICIANS OF CESA #6

Involving Certain Employees of

COOPERATIVE EDUCATIONAL SERVICE  
AGENCY #6

Case I

No. 13778 ME-557

Decision No. 9989

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Prior to opening the hearing, the parties stipulated that the appropriate collective bargaining unit, should the Commission direct an election, should consist of all speech clinicians employed by the Employer, Cooperative Educational Service Agency #6 (CESA), but excluding supervisors and all other employees of the Employer. CESA, however, argues that the instant petition should be dismissed on the basis that CESA is not a Municipal Employer within the meaning of Section 111.70, Wisconsin Statutes. It is argued that the school districts within the geographical boundaries of CESA constitute the Employers of the employees involved, and that CESA is nothing more than the hiring agent for said school districts. In support of its position CESA relies on the fact that its budget is set by statute at \$29,000 per year and that it does not have the power to levy taxes.

In determining the status of the Cooperative Educational Service Agency the Commission finds the following statutes pertinent:

"111.70(1)(a) 'Municipal employer' means any city, county, village, town, metropolitan sewerage district, school district or any other political subdivision of the state."

"22.166(2)(e) 'Political subdivision' includes counties, cities, towns, villages, special districts, authorities, and other public corporations and entities whether organized and existing under charter or general law."

"CHAPTER 116

CO-OPERATIVE EDUCATIONAL SERVICE AGENCIES  
AND AGENCY SCHOOL COMMITTEES

SUBCHAPTER 1

CO-OPERATIVE EDUCATIONAL SERVICE AGENCIES

116.01 Purpose. The organization of school districts in Wisconsin is such that the legislature recognizes the need for a service unit between the local school district and the state superintendent. The co-operative educational service agencies created under subch. II of ch. 39, 1963 stats., are designed to serve educational needs in all areas of Wisconsin and as a convenience for school districts in co-operatively providing to teachers, students, school boards, administrators and others, special educational services including, without limitation because of enumeration, such programs as research, special student classes, data collection, processing and dissemination, inservice programs and liaison between the state and local school districts.

116.02 Board of control; membership. (1) (a) Each agency shall be governed by a board of control composed of members of school boards of districts within the agency.

. . .

116.03 Board of control; duties. The board of control shall:

- (1) Determine the policies of the agency.
- (2) Receive state aid for the operation of the agency.
- (3) Approve service contracts with school districts, counties and other co-operative educational service agencies, but such contracts shall not extend beyond 3 years.
- (4) Determine each participating local unit's prorated share of the cost of co-operative programs and assess such costs against each participating unit, but no board of control may levy any taxes. No cost may be assessed against a unit for a co-operative program unless the unit enters into a contract for such service.
- (5) Appoint and contract with an agency co-ordinator, for a term of not more than 3 years, with qualifications established by rule by the state superintendent but at least equal to the highest level of certification required for school district administrators, who shall be considered a teacher as defined by s. 42.20(13) and subject to ch. 42.
- (6) Meet monthly and at the call of the chairman.
- (7) Select a chairman, vice chairman and treasurer from among its members at the annual organizational meeting. The agency co-ordinator shall act as a nonvoting secretary to the board of control. Vacancies shall be filled as are original selections.
- (8) Adopt bylaws for the conduct of its meetings.
- (9) Require a bond of the treasurer and the agency co-ordinator.
- (10) Authorize the expenditure of money for the purposes set forth in this subchapter and for the actual and necessary expenses of the board and agency co-ordinator and for the acquisition of equipment, space and personnel. All accounts of the agency shall be paid on vouchers signed by the chairman and secretary.
- (11) Establish the salaries of the agency co-ordinator and other professional and nonprofessional employes. The salary of the agency co-ordinator shall be not less than \$10,500 nor more than \$13,500.

Note: Sub. (11) above is printed as created by Chapter 92, laws of 1967. Chapter 340, laws of 1967, amended the predecessor section (39.56(11)) to read as follows: "39.56(11) The board shall establish the salaries of the co-ordinator and other professional and nonprofessional employes. State reimbursement for the cost of the salary of the co-ordinator shall be equal to the actual salary paid or the maximum of the salary range for public instruction supervisors under the state superintendent, whichever is less."

- (12) Annually, make an inventory of agency property and file copies of it in the agency office.
- (13) Do all other things necessary to carry out this subchapter.

116.04 Agency co-ordinator. The agency co-ordinator shall be responsible for co-ordinating the services, securing the participation of the individual school districts, county boards and other co-operative educational service agencies and implementing the policies of the board of control.

. . .

116.08 State aid. (1) Annually, there shall be paid not exceeding \$29,000 to each agency for the maintenance and operation of the office of the board of control and agency co-ordinator."

The nineteen Cooperative Educational Service Agencies in the State of Wisconsin were established as intermediate units under which school districts could, on a cooperative basis, obtain certain services and programs provided by CESA which otherwise would be impossible. It has been the history of the Cooperative Educational Service Agency that the people employed by said agencies and provided to the local school districts have generally been specialists of one kind or another which the school district because of its size would not be able to provide for itself. Thus, many of the educational service agency employes are specialists such as speech therapists, school psychologists, social workers, learning difficulty specialists, reading specialists, and the like. These specialists are employed under a contract with the agency and the services of these employes are then sold to the local school districts which comprise the agencies. Thus a speech therapist may serve two or three school districts on a cooperative basis. The hiring, firing and establishing of wages and working conditions of said specialists falls within the authority of CESA. The fact that said agency must operate within a statutory budget of \$29,000 and that said agency has no power to levy taxes, it is not controlling, inasmuch as said agency has the authority to hire, fire and establish the wages and working conditions of said employes. Contrary to CESA's claim, it is apparent that CESA is an employer rather than an agent of the school districts within its boundaries.

Therefore the Commission concludes that CESA is an authority and entity by general law and therefore a political subdivision of the state, within the meaning of Section 22.166(2)(e) and a Municipal Employer within the meaning of 111.70(1)(a) of the Wisconsin Statutes, and the Commission has today directed an election to be conducted among all speech clinicians, excluding supervisors, employed by said Municipal Employer.

Dated at Madison, Wisconsin, this 3rd day of November, 1970.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

*Morris Grayney*  
Morris Grayney, Chairman

*John S. Rice II*  
John S. Rice II, Commissioner