

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :

WAUKESHA COUNTY TECHNICAL EDUCATORS :
ASSOCIATION :

Involving Certain Employees of :

WAUKESHA COUNTY AREA BOARD OF :
VOCATIONAL, TECHNICAL AND ADULT :
EDUCATION 1/ :

Case III
No. 14667 ME-661
Decision No. 11076-B

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Appearances:

Mr. Michael L. Stoll, Staff Counsel, for the Petitioner.
Quarles & Brady, Attorneys at Law, by Mr. George K. Whyte, Jr.,
for the Municipal Employer.

FINDINGS OF FACT, CONCLUSION OF LAW AND ORDER
CLARIFYING BARGAINING UNIT AND AMENDING CERTIFICATION

Waukesha County Technical Educators Association having, on March 28, 1977, filed a petition with the Wisconsin Employment Relations Commission, wherein it requested the Commission to clarify an existing collective bargaining unit consisting of certain professional teaching personnel of Waukesha County Area Board of Vocational, Technical and Adult Education; and a hearing in the matter having been held on September 28, 1977 and January 6, 1978 at Pewaukee, Wisconsin before Stanley H. Michelstetter II, Examiner; and the parties having filed post-hearing briefs, the last of which was received July 26, 1978; and the Commission, having considered the evidence and arguments of the parties, being fully advised in the premises, makes and files the following Findings of Fact, Conclusion of Law, Order Clarifying Bargaining Unit and Amending Certification.

FINDINGS OF FACT

1. That Waukesha County Technical Educators Association, hereinafter referred to as the Association, is a labor organization and has its offices at Waukesha, Wisconsin.

2. That Waukesha County Area Board of Vocational, Technical and Adult Education, hereinafter referred to as the Board, operates a vocational, technical and adult education institution at Waukesha, Wisconsin.

3. That at all relevant times the Association has been the collective bargaining representative of all regular full-time teaching personnel, including Department Chairpersons and Guidance Counselors, and all regular part-time teaching personnel who teach daytime credit classes, employed by the Board; and that said collective bargaining unit includes full-time adult basic education (a.b.e.) instructors, but has not heretofore included part-time a.b.e. instructors.

1/ The parties agreed to the correct name of the Municipal Employer during the hearing.

4. That the Association in this proceeding requests the Wisconsin Employment Relations Commission to clarify the aforementioned collective bargaining unit to include part-time a.b.e. instructors.

5. That part-time a.b.e. instructors perform essentially the same duties as full-time a.b.e. instructors, under essentially the same hours and working conditions (except job security) as full-time a.b.e. instructors, and that the part-time a.b.e. instructors have job security, wages and benefits similar to those of some regular part-time employees presently included in the above-mentioned unit.

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

CONCLUSION OF LAW

That since a.b.e. instructors perform the same duties as full-time a.b.e. instructors and share a sufficient community of interest with part-time employees presently included in the collective bargaining unit, they are appropriately included in that unit within the meaning of Section 111.70(4)(d)2.a., Stats.

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

ORDER CLARIFYING BARGAINING UNIT AND AMENDING CERTIFICATION

That the collective bargaining unit currently represented by the Association be, and the same hereby is, clarified to include all part-time adult basic education instructors and our certification is hereby amended to include same.

Given under our hands and seal at the
City of Madison, Wisconsin this 3rd
day of July, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Gary L. Covelli
Gary L. Covelli, Commissioner

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

In 1972, the Commission, following an election conducted by it, certified the Association as the representative of:

. . .all regular full-time and all regular part-time certificated teaching personnel. . .including Department Chairmen and Guidance Counselors, but excluding all other teaching personnel, Librarian, Media Specialist, Curriculum Specialist, Coordinators, Registrar, Financial Aids, Placement and Veterans Officer, Aide to Adult Basic Education Coordinator, Athletic Director, supervisors, confidential and managerial employees. . . 2/

In Waukesha District 8 Area Board of Vocational, Technical and Adult Education (13818) 9/75, the Association sought to add certain specific positions to the existing unit. During the course of the hearing therein the parties entered into a settlement of certain of the issues in dispute as a part of which the Association agreed to withdraw its petition with respect to those disputed positions and the Board agreed to voluntarily expand the recognized unit to include regular full-time a.b.e. instructors 3/ Contrary to Association's assertion, although the Commission approved the withdrawal of the petition with respect to the settled positions, the Commission did not consider or approve the settlement or inclusion of full-time a.b.e. instructors.

The Association contends that inclusion of the part-time a.b.e. instructors is an appropriate issue for consideration in a clarification proceeding. It urges that said positions should be included in the unit because they are supportive of the educational program and share a community of interest with the employees presently included in the unit.

The Board has not denied that the inclusion of the part-time a.b.e. instructors is an appropriate issue for consideration in this clarification proceeding. 4/ It denies that the part-time a.b.e. instructors share a sufficient community of interest with the employees presently in the unit.

DISCUSSION

We conclude the sole issue for consideration is whether part-time a.b.e. instructors ought to be included in the instant unit with full-time a.b.e. instructors. We find they should.

2/ Waukesha District 8 Area Board of Vocational, Technical and Adult Education (11076-A) 7/72. This is the only unit of professional educators.

3/ The unit as restated by the parties appears in Findings of Fact 3.

4/ At page 211 of the transcript, Mr. Whyte stated that at the time of the settlement "...there was no stipulation or agreement that the part-times were out (of the unit). It was just decided that would not be discussed at that time."

In our 1972 direction of election with respect to this unit ^{5/} we included certain non-a.b.e., part-time teachers in the unit. In so doing, we stated our policy with respect to the inclusion of part-time employees in units with full-time employees as follows:

The Commission has regularly included regular part time employees in the same unit with regular full time employees, where there is a sufficient community of interest among the part time and full time employees and where the duties performed by the part time employees are identical to and performed under conditions compatible and similar to those duties performed by the full time employees....

There are 114 full-time non-a.b.e. instructors and 3 full-time a.b.e. instructors, all in the unit. There are approximately 400 part-time instructors, the vast majority of whom teach evening classes and who, except for approximately 30 part-time instructors, are not in the unit. Those in the unit are divided into two classifications, part-time I (less than half of the normal load) and part-time II (more than half). There are approximately 13 a.b.e. part-time instructors.

Both part-time and full-time a.b.e. teachers perform the same instructional duties in the same manner and in the same locations. They often substitute for each other. Full-time employees teaching credit courses and full-time a.b.e. instructors are required to perform certain non-instructional duties; participate in curriculum development and attend staff meetings. The regular part-time employees teaching credit courses who we have already included in the unit and a.b.e. part-time are not required to perform such duties, but are given extra compensation for doing so voluntarily.

Working conditions for a.b.e. instructors, full-time and part-time, are identical except for job security. All full-time unit employees (both credit and a.b.e.) are employed on a contract basis and are assured of full-time employment. Part-time unit employees (both credit and a.b.e.) are hired on an ad hoc basis. If sufficient demand for classes is not present in the semester, part-time instructors are laid off.

Unlike non-a.b.e. unit employees, part-time a.b.e. instructors are hired from the same pool of applicants as part-time employees and part-time a.b.e. are selected primarily on the basis of their ability to relate to socioeconomically disadvantaged adult students. Academic credentials are an important secondary concern of the Board. All, but one, part-time a.b.e. instructors have Bachelor's degrees, and a majority of them have Master's degrees in educational fields. Most of the part-time a.b.e. instructors are employed elsewhere as elementary or secondary teachers. Part-time I unit employees and part-time a.b.e. are all certified on an "approval" basis.

It is unclear whether any of the three a.b.e. full-time employees was directly hired. On the last occasion the Board decided to hire an additional full-time a.b.e. instructor, it told the part-time a.b.e. instructors the selection would be made from among them. The selection was, in fact, made from among the part-time a.b.e. instructors.

^{5/} Waukesha District 8 Area Board of Vocational, Technical and Adult Education (11076) 6/72 @ pp. 5-6.

Thus, we find close factual analogy between this case and our holding in Waukesha District 8 (11076). We find herein, as we did therein, that part-time a.b.e. employees perform virtually the same duties 6/ as full-time a.b.e. employees and have a sufficient community of interest with the unit which includes the full-time a.b.e. instructors. We have, therefore, clarified the instant unit to include the part-time a.b.e. employees, 7/ and amended our certification accordingly.

Dated at Madison, Wisconsin this 3rd day of July, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Gary L. Covelli
Gary L. Covelli, Commissioner

6/ Waukesha District 8 (11076) at p. 5.

7/ The inclusion of said employees does not automatically extend the provisions of the collective bargaining agreement to cover such employees.