

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
KENOSHA EDUCATIONAL AIDES ASSOCIATION	:	
and	:	Case XXV
	:	No. 15908 ME-825
KENOSHA UNIFIED SCHOOL DISTRICT NO. 1	:	Decision No. 11293-B
Involving Employes of	:	
UNIFIED SCHOOL DISTRICT NO. 1	:	
KENOSHA, WISCONSIN	:	

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Appearances:

- Ms. Gertrude L. Jensen, President, Ms. Donna J. Deerwester, Executive Board Member, appearing on behalf of the Kenosha Educational Aides Association.
- Mr. Gary L. Covelli, Coordinator of Staff Relations, appearing on behalf of the Kenosha Unified School District No. 1
- Ms. Kathryn Erickson and Mrs. Louis Andrea, appearing on behalf of Noon-Hour Supervisors.

ORDER GRANTING IN PART AND DENYING IN PART  
PETITION TO AMEND CERTIFICATION OF REPRESENTATIVES

Kenosha Educational Aides Association and Unified School District No. 1, Kenosha, Wisconsin, having filed a petition to Amend Certification of Representatives with the Wisconsin Employment Relations Commission requesting that the Commission exclude all part-time aides from the certified collective bargaining unit consisting of all regular full-time and regular part-time aides employed by Unified School District No. 1, including but not limited to the following categories: bus aides, noon-hour supervisors, instructional aides, special education aides, speech aides, learning disability aides, resource aides, library aides and social work aides, but excluding voluntary (unpaid) aides, professional employes, supervisory and managerial personnel and confidential and temporary employes; 1/ and, pursuant to notice, a hearing having been held in the matter at Kenosha, Wisconsin, on August 22, 1974, Herman Torosian, Hearing Officer, being present; and the Commission having considered the evidence and arguments and being fully advised in the premises and makes and files the following

ORDER

1. That the Commission's certification, Decision No. 11293-A, is amended to exclude bus aides on the basis that Kenosha Unified School District No. 1 has eliminated all bus aide positions; and

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1/ Decision No. 11293-A.

2. That the joint petition filed by Kenosha Educational Aides Association and Unified School District No. 1, Kenosha, Wisconsin, requesting that noon-hour supervisors and instructional aides be excluded from the Commission's certified collective bargaining unit is hereby dismissed.

Given under our hands and seal at the City of Madison, Wisconsin this 17<sup>th</sup> day of September, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

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

Howard S. Bellman  
Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING ORDER GRANTING IN PART AND  
DENYING IN PART PETITION TO AMEND  
CERTIFICATION OF REPRESENTATIVES

The Commission, on September 19, 1972, directed an election to be conducted in the following collective bargaining unit, which it found to be appropriate:

all regular full-time and regular part-time aides employed by Unified School District No. 1, including but not limited to the following categories: bus aides, noon-hour supervisors, instructional aides, special education aides, speech aides, learning disability aides, resource aides, library aides and social work aides, but excluding voluntary (unpaid) aides professional employes, supervisory and managerial personnel and confidential and temporary employes.

In determining the appropriateness of said unit, the Commission considered the Employer's contention that all part-time aides, and specifically bus aides and noon-hour supervisors, should be excluded from the unit on the basis that they, as part-time employes, do not share a community of interest with full-time employes.

In that decision, the Commission adhered to its well-established policy of not requiring part-time employes to work a specified number of hours in order for such employes to be included among those eligible to participate in the election. The Commission further stated that unless there were special circumstances indicating that a group or groups of regular part-time employes do not in fact have a definite interest in wages, hours and working conditions governing their employment, such employes shall be determined eligible for inclusion in the bargaining unit. The Commission concluded that there were no special circumstances sufficient to justify a decision not to include the bus aides and noon-hour supervisors within the collective bargaining unit. In this regard the Commission, in its decision stated the following:

"The fact that certain employes have historically received less favorable terms and conditions of employment than others does not, without more, conclusively establish that the bus aides and noon-hour supervisors may not be combined with the rest of the aides into a single bargaining unit.

Furthermore, the record indicates that there is a considerable similarity between the work of the bus aides and noon-hour supervisors on the one hand and that of the rest of the aides in the claimed unit on the other. The employes in both groups are responsible, to a greater or lesser extent, for the supervision of students. For that reason, the Commission is satisfied that the bus aides and noon-hour supervisors have a community of interest with the other aides sufficient to warrant their inclusion in the same bargaining unit." (Footnotes omitted)

Since said certification, however, the record clearly establishes that the Municipal Employer no longer employs bus aides, and that said classification has been eliminated. In the future, bus aides will be provided by Jelco Bus Company, which provides the busing service for the Kenosha Unified School District No. 1. For said reason, the Commission has today amended its certification to exclude said classification from the unit.

As to the noon-hour supervisors and instructional aides, the Petitioners presented the same arguments contending a lack of community of interest as were presented in the first proceeding, i.e., that part-time employees historically do not receive the same fringe benefits and have different working conditions than full-time employees; and that the nature of the supervision performed by the part-time aides and by the full-time aides is different.

In regard thereto, the Commission, in reviewing said arguments, once again, finds no convincing reason to amend its certification as requested by the Petitioners.

Additionally, the Association contends that very few of the noon-hour supervisors presently belong to the Association, which, it is argued, establishes a lack of community of interest with full-time employees.


The Commission finds no merit in such a contention. While there is obviously a lack of interest on the part of part-time employees in joining the Kenosha Educational Aides Association, said fact is not significant in determining whether a group of employees share a community of interest for the purposes of determining an appropriate collective bargaining unit.

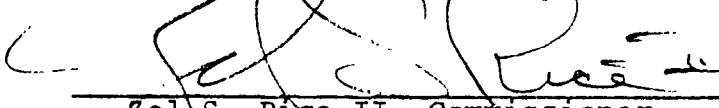
Finally, the Petitioners argue that the positions of instructional aides, if for no other reason, should be excluded on the basis that they are not presently filled. Inasmuch as there is a possibility that said positions may be filled later, the Commission concludes the classification of instructional aides should not be excluded on said basis and therefore should remain in the certified collective bargaining unit.

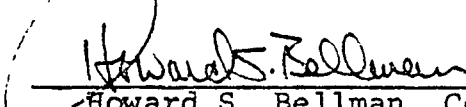
Dated at Madison, Wisconsin this 17<sup>th</sup> day of September, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Blayney, Chairman

  
Zel S. Rice II, Commissioner

  
Howard S. Bellman, Commissioner