

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

Involving Certain Employees of

GIBRALTER AREA SCHOOLS BOARD OF
EDUCATION

Case V

No. 15954 ME-831

Decision No. 11339

Appearances:

Mr. James Miller, Representative, appearing on behalf of the
Petitioner.

Mr. E. William Seeburger, Administrator, appearing on behalf
of the Municipal Employer.

DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election among certain employees of Gibraltar Area Schools Board of Education, Fish Creek, Wisconsin; and a hearing having been conducted on said petition at Fish Creek, Wisconsin, George R. Fleischli, Hearing Officer, being present; and the Commission having considered the evidence and being satisfied that a question has arisen concerning representation for certain employees of the above named Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive in the collective bargaining unit consisting of all regular full-time and regular part-time employees of Gibraltar Area Schools Board of Education, Fish Creek, Wisconsin, but excluding all professional employees, confidential employees, managerial employees and supervisors, who were employed by the Municipal Employer on October 2, 1972, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented for the purposes of collective bargaining by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO.

Given under our hands and seal at the
City of Madison, Wisconsin, this 3rd
day of October, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING
DIRECTION OF ELECTION

By its petition, the Petitioner seeks an election among all non-certificated personnel of the School District who are eligible to bargain collectively, including clerical employees, aides, cooks, custodians, maintenance employees and bus drivers. The Municipal Employer raised no objection to the inclusion of all non-certificated personnel in a single bargaining unit and under the circumstances present in this case, the Commission is satisfied that the bargaining unit petitioned for is an appropriate bargaining unit.

The parties stipulated that Mrs. JoAnn Thomas, Administrative Secretary, is a confidential employee and should, therefore, be excluded from the bargaining unit, and that Laurence Daubner, Superintendent of Building and Grounds is a supervisor and should likewise be excluded from the bargaining unit. It further was stipulated that Mrs. Neil Anderson and Mrs. Gene Anderson, who help with the lunch program at the graded schools in Bailey's Harbor and Sister Bay, were casual employees having an insufficient community of interest with the rest of the employees in the bargaining unit to justify their inclusion in the bargaining unit at this time. The parties were unable to agree with regard to the alleged supervisory status of Alvin Krause, Head Bus Driver, and Dorothy Fairchild, Head Cook.

HEAD BUS DRIVER

According to the Municipal Employer's organizational chart, the Head Bus Driver reports directly to the Administrator and has nine drivers who report directly to him. The duties and responsibilities of the Head Bus Driver are outlined in the school board policy as follows:

- "1. Supervise all bus drivers.
2. Work with the district administrator in establishing bus routes and pick-up times.
3. Work with high school principal and elementary principal in establishing extra curricular trips.
4. Make recommendations to the Board and district administrator of all repair work to be done and tires and other major equipment to be purchased.
5. Assist the district administrator in drawing up specifications for new bus purchases.
6. Assist the Board in examining and awarding bids for purchase of new buses.
7. Keep all transportation records as required by State, Board and district administrator.
8. Take charge of summer maintenance of buses for inspection."

The Head Bus Driver is the only driver who works an eight-hour day. He spend approximately five out of the eight hours driving bus routes and the other three hours are devoted to accomplishing the duties set out above. All bus drivers, including the Head Bus Driver, are compensated by a monthly salary. The Head Bus Driver earns considerably more

than the other drivers; however, if the salaries are compared on an hourly basis the Head Bus Driver earns approximately 5¢ per hour more than the other drivers. None of the bus drivers receive longevity pay or merit pay.

In the past Krause has made recommendations to the Administrator with regard to the hiring, and the transferring of bus drivers. The Administrator in turn acts on these recommendations by approving them or relaying them to the School Board for their approval. The Head Bus Driver assigns the routes to the men and tells them the hours within which they should drive those routes. In the recent past, Krause has made a recommendation to the Administrator, and through him to the Board, with regard to the layoff of one bus driver based on a lack of work and that recommendation was followed. He has had occasion to verbally reprimand employees, but has never had the occasion to recommend the discharge of an employee. On a few occasions, Krause has asked the Administrator to talk to employees for engaging in unsafe driving habits. The Employer has no formal evaluation system or merit system for bus drivers.

HEAD COOK

According to the Municipal Employer's organization chart, the Head Cook reports directly to the Administrator and the kitchen staff, consisting of three Assistant Cooks and three Helpers, reports directly to her. The duties and responsibilities of the Head Cook are outlined in school board policy as follows:

- "1. Prepare all menus.
2. Supervise and assist cooks and helpers in preparation of food.
3. Supervise all student help.
4. Keep an inventory of all government donated commodities.
5. Assist bookkeeper in preparation of required reports.
6. Provide a daily cost analysis of the lunch program.
7. Supervise or assign a supervisor for the cafeteria during lunch periods."

The Head Cook normally works an eight hour day but she only spends approximately 1 1/2 hours out of the day performing cooking duties; the balance of her time is spent in accomplishing the duties outlined above. The actual proportion of her time spent assigning duties to the work force and directing them in food preparation is difficult to estimate. However, it is clear that she does spend a large portion of her time keeping inventory, preparing reports, computing daily cost analyses and preparing menus.

The Head Cook is the only employee who works an eight hour day and she consequently earns considerably more than the Assistant Cooks and Helpers earn. Like the bus drivers, all the kitchen employees are paid a monthly salary. If the salaries are compared on an hourly basis, the Head Cook receives 10¢ an hour more than the Assistant Cooks.

Fairchild has, in the past, made recommendations with regard to the hiring and transferring of employees and the Administrator has in the past gone along with those recommendations. She has also made recommendations with regard to increasing the pay of the kitchen employees and the maintenance of differentials between Assistant Cooks and Helpers and the School Board has in the past gone along with those recommendations.

Although she has verbally reprimanded employees for disregarding her instructions, she has never had occasion to recommend any more severe disciplinary action. On one occasion, she recommended that an employee, whose work was more nearly like that of higher paid employees, be given a wage increase, and that recommendation was followed. In another case, where an employee had a grievance regarding her hours of work, Fairchild made a recommendation to the Administrator that her hours be changed and they were.

ALLEGED SUPERVISORY STATUS

It appears on the basis of the evidence presented that both Krause and Fairchild are supervisors within the meaning of Section 111.70(1)(o)1 of the Wisconsin Statutes. Both Krause and Fairchild have been given responsibilities and authority commensurate with their title and position. There is no intermediate level of supervision between the Administrator and the principals and various department heads and the ratio of supervisors to employees indicates that the department heads operate with a great deal of autonomy. The fact that Krause spends a considerable portion of his time driving a bus and that Fairchild spends a considerable portion of her time performing administrative and bookkeeping duties is significant but not controlling. The duties of a supervisory nature performed by both employees appear in sufficient degree and combination to justify the conclusion that they are supervisors within the meaning of the statute.

For the above and foregoing reasons, the Commission has directed an election in the above described bargaining unit and has excluded Krause and Fairchild from the list of eligible voters, because of their supervisory status.


Dated at Madison, Wisconsin, this 3rd day of October, 1972.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slawney, Chairman


Zel S. Rice II, Commissioner


Jos. B. Kerkman, Commissioner