

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

No. 11881

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

During the course of the hearing an issue arose concerning the confidential status of the secretarial employees.

The Municipal Employer, contrary to the Union, argues that Secretary to the Superintendent, Central Office Receptionist and Secretary to the Business Manager are all confidential employees and thereby excluded from an appropriate collective bargaining unit pursuant to Section 111.70 of the Wisconsin Statutes.

Secretary to the Superintendent

The incumbent Secretary to the Superintendent, Ann Orth, serves as a bookkeeper and Secretary to the Board of Education. Her duties include transcribing the minutes of board meetings, preparing and posting the payroll, typing and handling of the Superintendent's correspondence, and typing budgetary documents. The Secretary to the Superintendent has access to all personnel records. In the performance of her duties for the Superintendent, she occasionally types employee reprimands and records disciplinary actions.

We are satisfied that the Secretary to the Superintendent is a confidential employee and thereby is appropriately excluded from the collective bargaining unit. The position's access to personnel files, financial material and confidential correspondence substantiate the confidential nature of the duties of the Secretary to the Superintendent.

Receptionist-Secretary

The Receptionist-Secretary, Martha Flory, serves as receptionist for the administration offices and performs some secretarial work for the Superintendent and Business Manager. The incumbent handles most of the Superintendent's correspondence and occasionally works on the payroll. The position is primarily responsible for relaying incoming telephone calls and directing visitors.

Although the Receptionist-Secretary occasionally fills in for the Secretary to the Superintendent or the Secretary to the Business Manager, we are not satisfied that she has access to or knowledge of confidential matter concerning labor relations. We conclude that the Receptionist-Secretary is appropriately included in the collective bargaining unit.

Secretary to the Business Manager

The Secretary to the Business Manager, May Neugart, posts sickness and leaves of absence records. She types the correspondence of the Business Manager, which may include matters relating to employee discipline and the budget. The position's incumbent has access to the personnel files of the employees.

We are satisfied that the Secretary to the Business Manager is a confidential employee. The position's access to confidential matters relating to employee records and the budget, warrants the exclusion of the Secretary to the Business Manager from the bargaining unit.

Teaching Aides

Presently fifteen teacher aides are employed by the Municipal Employer. The Municipal Employer argues that the teacher aides should be excluded from the collective bargaining unit. Contrary to the Union, the Municipal Employer asserts that the full federal funding of the teacher aide positions justifies their exclusion from the collective bargaining unit.

The Municipal Employer argues that the program functions strictly on a year to year basis with no guarantee of continuation for a given school year. The teacher aides are paid \$15.63 per day and receive no

fringe benefits. The Municipal Employer avers that the teacher aides, upon expiration of their individual, 180 day contract in June, 1973, will be individually considered by the Superintendent for re-employment in the event that the teacher aide program is federally approved for the 1973-1974 school year. Thus, the Municipal Employer concludes that the teacher aides are casual employees, appropriately excluded from the collective bargaining unit.

The Municipal Employer is responsible for the hiring of teacher aides and exercises authority in discharging or disciplining aides. The teacher aides are subject to the supervision and direction of the Municipal Employer.

This Commission has previously held that source of funding alone does not establish casual employment 1/:

"It is true that the funds required to continue the employment of . . . Aides might not necessarily be appropriated or allocated for this purpose in future years by the federal or State governmental units now involved: However, it should be noted that this is also true with regard to the funds required to continue the employment of the Board-funded Aides, which the Municipal Employer admits are eligible to vote. Funds to retain Board-funded Aides must be freshly appropriated by the Municipal Employer in its budget for each calendar year, and there is no assurance that the Municipal Employer will retain such employees in future years. In fact, most programs in public employment, whether federal, state or municipal, are financed through the adoption of budgets on a year-to-year basis, or, in the case of the State, on a biennial basis. If we were to deny eligibility to employees who are paid from funds provided only on a year-to-year basis, our laws governing labor relations in the public sector would be rendered almost meaningless because only few employees, if any, would be entitled to the laws' benefits. We do not believe the legislature intended to so restrict employee rights, and the mere fact that an individual is paid from funds which must be re-appropriated in future years will not preclude him from exercising the statutory rights of an employee.

Just as we will not deny eligibility to a municipal employee for the reason that he receives his salary from funds provided on a year-to-year basis, we will not deny eligibility to a municipal employee solely for the reason that he is paid from funds provided through programs funded by the federal or State government. Such a factor should not act to prevent a person from exercising employee rights when other considerations suggest that the person is 'regularly employed'. If, as here, the employee works a sufficient number of hours, is paid and supervised by the municipal employer, and in other respects has a sufficient measure of interest in his conditions of employment, he shall be deemed to be regularly employed and his eligibility will not be denied because the source of funding for his salary is another governmental unit." 2/

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1/ Superior Vocational School System (7479) 2/66.

2/ Milwaukee Board of School Directors (9000) 4/69.

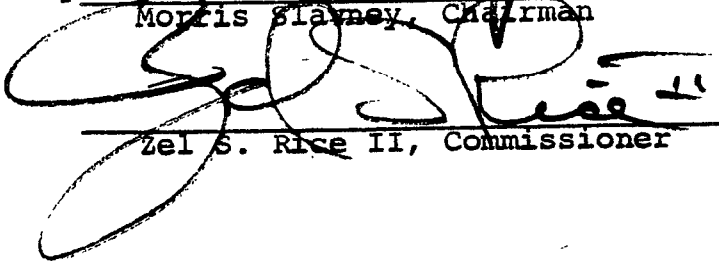
We conclude that the teacher aides have sufficient interest in the conditions of their employment to be included in the collective bargaining unit established as appropriate herein.

Dated at Madison, Wisconsin, this 23rd day of May, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Flannery, Chairman

  
Zel S. Rice II, Commissioner