#### 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 Employes of

Case III No. 16632 ME-903 Decision No. 11881

ADAMS-FRIENDSHIP AREA SCHOOLS

Appearances:

Mr. Walter J. Klopp, Representative, WCCME, AFSCME, AFL-CIO, appearing on behalf of the Petitioner.

Mr. Gordon Sardeson, Superintendent, Adams-Friendship Area Schools, 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 pursuant to Section 111.70 of the Wisconsin Statutes among certain employes of Adams-Friendship Area Schools; and hearing on such petition having been conducted on April 24, 1973, at Adams, Wisconsin, Kay Hutchison, Hearing Officer, having been present; and the Commission having considered the evidence and position of the parties, and being satisfied that a question has arisen concerning representation for certain employes of Adams-Friendship Area Schools;

NOW, THEREFORE, it is

### DIRECTED

That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within thirty days from the date of this directive in the collective bargaining unit consisting of all regular full-time and regular part-time employes of Adams-Friendship Area Schools, including custodial employes, custodialbus driver employes, maintenance employes, clerical employes, teacher aide employes and cooks; but excluding the Superintendent, Business Manager, professional, confidential and supervisory employes and all other employes, who were employed on April 24, 1973, except such employes as may prior to the election quit their employment or be discharged for cause, to determine whether a majority of such employes desire to be represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO for the purposes of collective bargaining with Adams-Friendship Area Schools on questions of wages, hours and conditions of employment.

> Given under our hands and seal at the City of Madison, Wisconsin, this 23rd day of May, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

. Rice II, Commissioner

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No. 11881

### MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

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

The Nunicipal Employer, contrary to the Union, argues that Secretary to the Superintendent, Central Office Receptionist and Secretary to the Business Manager are all confidential employes 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 employe reprimands and records disciplinary actions.

We are satisfied that the Secretary to the Superintendent is a confidential employe 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 employe discipling and the budget. The position's incumbent has access to the personnel files of the employes.

We are satisfied that the Secretary to the Business Manager is a confidential employe. The position's access to confidential matters relating to employe 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 employes, 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 employes 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 employes who are paid from funds provided only on a year-toyear basis, our laws governing labor relations in the public sector would be rendered almost meaningless because only few employes, if any, would be entitled to the laws' benefits. We do not believe the legislature intended to so restrict employe 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 employe.

Just as we will not deny eligibility to a municipal employe 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 employe 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 employe rights when other considerations suggest that the person is 'regularly employed'. If, as here, the employe 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/

Superior Vocational School System (7479) 2/66.

<sup>2/</sup> 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

Morris Blarney, Chairman

Zel S. Rice II, Commissioner