

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :
FOX RIVER VALLEY DISTRICT, COUNCIL #40 : Case XIV
Involving Certain Employees of : No. 16678 ME-912
JOINT SCHOOL DISTRICT #1, CITY : Decision No. 11932
AND TOWN OF MENASHA :

Appearances:

Mr. William Sandoval, District Representative, appearing on
behalf of the Petitioner.
Mr. Alan D. Osterndorf, Administrator, appearing on behalf of
the Municipal Employer.

ORDER DISMISSING PETITION FOR ELECTION AND
CLARIFYING BARGAINING UNIT

Fox River Valley District, Council #40, having petitioned the Wisconsin Employment Relations Commission to conduct an election, pursuant to Section 111.70 of the Wisconsin Statutes, among certain employees of Joint School District #1, City and Town of Menasha; and hearing on said petition having been conducted on May 9, 1973, by Kay Hutchison, Hearing Officer; and the Commission having considered the evidence and being fully advised in the premises, and being satisfied that the employees involved in the instant matter should accrete to an existing collective bargaining unit and that, therefore, no question of representation presently exists among the employees involved;

NOW, THEREFORE, it is

ORDERED

1. That the teacher aides be included in an existing unit consisting of all regular full-time and regular part-time secretaries employed by Joint School District #1, City and Town of Menasha, and that, therefore, the district of said collective bargaining unit be amended to read as follows:

All regular full-time and regular part-time secretaries and aides employed by Joint School District No. 1, City and Town of Menasha, excluding confidential employees, supervisors, professional and managerial employees, custodial and food service employees.

2. That, since no question of representation presently exists among the teacher aides, the petition filed herein be, and the same hereby is, dismissed.

Given under our hands and seal at the
City of Madison, Wisconsin, this 18th
day of June, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Jos. B. Kerkman
Jos. B. Kerkman, Commissioner

MEMORANDUM ACCOMPANYING ORDER DISMISSING
PETITION FOR ELECTION AND CLARIFYING BARGAINING UNIT

At the onset of the hearing in the instant proceeding, the Petitioner motioned that its petition be dismissed in the event that the Commission found the employees petitioned for herein to be an appropriate accretion to an existing unit. 1/

The Municipal Employer argues that the aides do not constitute an appropriate accretion to the existing secretarial unit. The Municipal Employer asserts that the appropriate unit in the instant proceeding consists of "all regular full-time and part-time aides employed by Joint School District #1, City and Town of Menasha, excluding teachers, maintenance, custodial, food service, secretarial and administrative personnel", as petitioned for by the Petitioner.

The Municipal Employer argues that the interests and working conditions of the aides significantly differ from those of the secretarial employees and thereby warrant their exclusion from the secretarial unit.

Upon the Superintendent's recommendation, the teacher aide program was initiated in 1970. The Municipal Employer alleges that it is a supplemental and experimental program designed to alleviate the increasing student-teacher ratio in the classroom and library. In order to stabilize the ratio of students to personnel at a 25 to 1 level, the Municipal Employer employed fifteen aides during the 1972-73 school year.

A job description prepared in March, 1973 2/ spells out the function of the teacher aides and conditions of employment to be as follows:

"Teacher Aides: The teacher aide provides assistance to the classroom teacher or librarian in the areas of instruction, classroom organization and maintenance, record keeping and public relations as assigned. All activities are performed at the direction of the classroom teacher or librarian and under the final supervision of the building principal. Teacher aides shall not have the total responsibility for the educational program of any pupils. Although the teacher aides assume responsibility for participation in the instructional program that is an integral part of providing quality education for all children of this district, the determination of what shall be taught and how it shall be evaluated rests with the certified teaching and administrative staff. The teacher

1/ On October 19, 1972, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, was certified as the exclusive collective bargaining representative for "all regular full-time and regular part-time secretaries employed by Joint School District No. 1, City and Town of Menasha, excluding confidential employees, supervisors, professional and managerial employees, custodial and food service employees."

2/ The description was drafted as a policy statement for the approval of the Board of Education Personnel Committee but had not been acted upon at the time of hearing.

aid (sic) position shall be supplementary to the regular positions within a school system and shall not be considered as a position providing long term career type objectives."

"Appointment, evaluation, and retention

Qualifications for teacher aides will be determined by the Superintendent of Schools. Such qualifications shall include at least a minimum of high school education and some experience in working with young people. The superintendent shall recommend qualified personnel to the Board of Education for appointment.

Teacher aides will be employed by contract for a school year.

Periodic evaluations of the teacher aides will be submitted to the Superintendent of Schools by the building principal.

All teacher aide appointments are contingent upon satisfactory service.

Work Schedule: A seven hour day shall be considered normal for teacher aides. Teacher aides will normally be present only when regular classes are in session. Exceptions to this must be approved by the building principal.

Wages and Benefits

Wages: Teacher aides shall be hourly employees. A starting salary shall be \$2.00 per hour. Adjustments may be made at the end of each contract year. Teacher aides will be paid twice monthly on the 15th and 30th of the month.

Sick Leave: After the first year of employment three days of sick leave will be granted, after two years five days, after three years eight days noncumulative.

Grievances: If a teacher aide has a grievance she is free to consult her principal in an effort to reach a mutually and satisfactory settlement. If no satisfactory agreement is reached the teacher aide and the supervisor may discuss the matter with the Superintendent of Schools. Ultimate redress of grievance will rest with the Board of Education.

Retirement: All teacher aides are subject to the 65 year retirement policy of the Menasha Public Schools. All teacher aides will be members of the Municipal Retirement System and the Board of Education agrees to pay the employees full share of the retirement contribution."

The duties of the aides assigned to a classroom consist of:

"To assist the classroom teacher by reviewing and reinforcing lessons initiated by the classroom teacher with individual and small groups of children.

To prepare instructional materials and to assist in the setting up operation and maintenance of various instructional equipment and aids.

To assist the classroom teacher in necessary clerical work.

To participate in weekly and long range planning with the classroom teacher or teaching team.

To supervise groups of children at work or play to allow the classroom teacher to work with small groups or individual children.

To contribute to enrichment activities by utilizing special talents and abilities.

To assist in implementing classroom routine such as storing of materials and aid in cleaning up work areas.

To foster a warm and open atmosphere in all contacts with children and to encourage them to participate freely in all activities at their individual levels of interest and ability.

To perform other related duties as requested by the classroom teacher and approved by the building principal."

The duties assigned to those aides working in the library include:

"Assist students and staff in securing materials from the library and resource centers.

Assist librarian in preparing library materials.

To perform other related duties as requested by the librarian and approved by the administrator in charge."

Furthermore, the job description specifies that "the teacher aide is under the direction of the teacher for the conduct and implementations of the assigned duties. The building principal shall retain the ultimate responsibility and supervision of the teacher aide." 3/

The Municipal Employer states that many of the aides are assigned to teams of teachers, particularly in the elementary grades. The aides are non-certified personnel who are employed on a year to year basis. The Municipal Employer argues that the aide program is not a career program but rather provides supplemental employment for a period of nine months.

Furthermore, the Municipal Employer asserts that the District's student population will be reduced by 63 pupils next year and that adherence to the established 25 to 1 ratio for the 1973-1974 school year will reduce the present number of aides by seven employees. Only the aides assigned to special education and the library will be employed for the 1973-1974 school year. Therefore, the Municipal Employer avers that with the exception of the library and special education aides, the remaining aides are temporary employees.

Lastly, the Municipal Employer alleges that the conditions of employment of the aide position occupied by Virginia Graves are substantially different from those of the other aides. Ms. Graves works with trainable children in the Happy Day School--Work Adjustment Center. The Municipal Employer argues that the position's occupant was considered to be an aide when the program was funded by the Division of Health. However, the Municipal Employer has assumed responsibility for the program and the position has been made a full-time salaried job. The Municipal Employer notes that the position's incumbent is presently working toward certification requirements of the position and upon completion

3/ Board Exhibit #1.

the designation of the position as an "aide" will be discontinued and the job's responsibility and supervision will change.

The Petitioner avers that the aides are an appropriate accretion to the existing clerical unit. The Petitioner notes that Section 111.70 specifies that the Commission, in determining appropriate collective bargaining units, is to avoid fragmentation whenever possible. In that the aides are not certified teaching personnel, the Petitioner reasons that the aides may be properly included with the clerical unit.

Section 111.70(d)2a of the Municipal Employment Relations Act specifies that:

"The commission shall determine the appropriate bargaining unit for the purpose of collective bargaining and shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force. In making such a determination, the commission may decide whether, in a particular case, the employees in the same or several departments, divisions, institutions, crafts, professions or other occupational groupings constitute a unit."

The record discloses that the aides spend a substantial amount of time performing clerical duties ranging from record keeping to preparation of classroom materials. We are satisfied that the duties and ultimate supervision of the aides provides them a sufficient community of interest with the clerical employees to warrant the inclusion of the aides with the clerical unit and thereby avoid fragmentation.

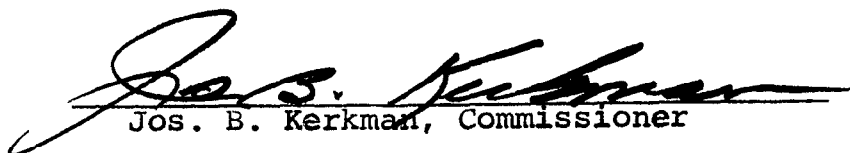
Furthermore, the conceivable fluctuation of aide positions on a year to year basis supports the inclusion of the aides with the clerical unit. It would appear that needless fragmentation would be fostered in the event that a strictly aide unit was established containing only three aide positions.

Therefore, we conclude that the aides are an appropriate accretion to the existing clerical unit. The Commission is satisfied that all aide positions employed by the Municipal Employer shall accrete to the clerical unit. Until such time as Ms. Graves acquires certification and the aide position she presently occupies is discontinued, the aide position in the Happy Day School is properly included in aide and clerical unit.

Dated at Madison, Wisconsin, this 18th day of June, 1973.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Jos. B. Kerkman, Commissioner