

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

No. 12166-A

MEMORANDUM ACCOMPANYING ORDER CLARIFYING BARGAINING UNIT

The instant proceeding was initiated by the petition of Watertown Teachers Education Association, hereinafter referred to as the Association, requesting clarification of the existing collective bargaining unit comprised of certain employees of the Watertown Unified School District #1, hereinafter referred to as the District. The District, contrary to the Association, avers that the positions of Assistant Principal in the Concord and Lebanon Elementary Schools are supervisory and confidential in nature and thereby, are appropriately excluded from the collective bargaining unit consisting of all regular full-time and regular part-time certified personnel employed by the District, including Librarians, guidance personnel, Speech Therapist, summer school teachers, but excluding the Superintendent, supervisors, Principals, Dental Hygienist and substitute teachers.

In response to changes in the distribution and composition of the District's student population, the District reassigned various students from "in town" education facilities to schools outside the Watertown city limits. Concord Elementary School is located approximately 15 miles outside of Watertown, and Lebanon Elementary is approximately 6 miles from the city limits. Prior to the reassignment of students, Concord and Lebanon housed three classrooms of combined classes which consisted of first and second grade, third and fourth grade, and fifth and sixth grade. However, as of the 1973-1974 school year, each of the outlying elementary schools consist of four classrooms separately housing a first, second, third and fourth grade. In an attempt to alleviate public concern over adequate pupil supervision and the quality of education provided in the rural elementary schools, the District employed an Assistant Principal at each location to serve as a public contact person and coordinator of education programs. Prior to the 1973-1974 reassignment of pupils and creation of Assistant Elementary Principal positions, Concord and Lebanon were directly supervised by one of the two "in town" non-teaching Elementary Principals. Presently, the Assistant Elementary Principals report with regard to their administrative duties to one of the aforementioned Elementary Principals.

Concord and Lebanon Elementary Schools consist of four classrooms, a gymnasium, kitchen and school secretary's office. The respective staffs of Concord and Lebanon are comprised of four full-time teachers including the Assistant Principal, a secretary, food service worker and part-time custodian.

The general duties of the Assistant Principal as set forth in the initial job description are as follows:

1. Serve as educational leader for the staff.
2. Assume responsibility for developing programs of individualized instruction.
3. Serve as full-time teacher.
4. Supervise and evaluate all certified and non-certified staff assigned to the school.
5. Assume responsibility for community involvement, planning, curriculum planning, scheduling and evaluation of programs. 1/

1/ Board Exhibit #1.

In addition, occupants of the positions herein must qualify for state certification as Assistant Elementary Principal and complete Principal certification requirements 2/ within two years of appointment to the Concord and Lebanon positions.

In addition to being full-time teachers, Judith Kaufman and Georgia Kasper are the respective Assistant Principals of Concord and Lebanon Elementary Schools. Upon employment, they were issued extended contracts for 40 weeks as opposed to 38 weeks contractual employment for regular teachers. The Assistant Principals are compensated at \$1,000 above the teachers' salary schedule. In addition, Ms. Kaufman and Ms. Kasper receive an annual car allowance of \$250, the same amount received by the non-teaching Principals. Fringe benefits for the positions have been secured through the administrative employees' program rather than through the teachers' group.

The incumbents participate in the supervision of students during recess and lunch period. Although the Assistant Principals have not observed the other teachers in their classrooms, they have presided over informal staff meetings in their respective schools. Furthermore, they submit weekly written reports to their respective supervising principals which note any problems with the staff or facilities. Ms. Kasper participated in the interviewing of five teacher applicants for a 1973-1974 Concord vacancy which was conducted by the "in town" Elementary Principal.

Ms. Kaufman testified that she is relieved from her regular teaching duties approximately three hours per week by a special teacher. Such non-teaching periods, and the approximate 15 minutes preceding each school day are spent by Ms. Kaufman on administrative duties. Ms. Kaufman estimates that she spends 20 to 25% of her working time performing the duties of Assistant Principal. Ms. Kasper testified that she spends approximately ten hours per week or 22 to 25% of her working time on the administrative duties in Concord. Such duties include filing the aforementioned weekly report, working with parents and staff, supplying educational resources and materials to other staff members, developing individual instruction programs in cooperation with other teachers, and in the case of Ms. Kaufman, establishing an "in house" library facility.

The District, contrary to the Petitioner, avers that the positions of Assistant Elementary Principal at Concord and Lebanon are appropriately excluded from the collective bargaining unit as supervisory and confidential employees. The District argues that the Assistant Principals are supervisors within the meaning of Section 111.70. As evidence of

2/ Board Exhibit 2 states that:

"Elementary School Principal
(in schools with 6-10 teachers)

For the three year certificate, the applicant must be at least 24 years of age and have completed and/

such supervisory status, the District cites the involvement of the position in the hiring process, overseeing of professional and non-professional staff, and responsibility for programs and facilities. The District avers that the Assistant Principals will increasingly exercise direct supervision and evaluation over teaching positions assigned to Concord or Lebanon. Furthermore, the District contends that the Assistant Principals, as administrative personnel, could recommend non-renewal of staff to the supervising Principal or the Superintendent. However, action such as suspension, or discharge would be initiated at a higher level of supervision.

In support of its contention that the incumbents are confidential employees, the District notes that the Assistant Elementary Principals have attended administrative meetings at which no teachers were present. The District avers that the incumbents may be requested to attend School Board meetings and have the authority to secure teaching replacements for themselves in such event. Furthermore, the District asserts that in the future the Assistant Principals may be selected to participate on the administrators' collective bargaining team. During the past year's collective bargaining with the teachers' unit and subsequent strike, Ms. Kasper and Ms. Kaufman remained on the job and received confidential memos from the administration with regard to teacher-labor relations.

The District notes that the Commission has excluded Elementary Assistant Principals from the unit of regular teachers in Wausau Joint School District #1, (10371-A) 4/72. The Commission determined such employees to be supervisory on the basis of their responsibilities outside the classroom which included involvement in hiring, evaluation; access to personnel files and confidential records; authority concerning school operation; and 30% reduction in teaching load.

The Association argues that the Assistant Elementary Principals are neither supervisory nor confidential employees. The Association contends that the incumbents do not exercise direct, day-to-day classroom supervision of teaching personnel, but rather supervise general education programs and facilities. The Association argues that the positions herein are occupied by full-time teachers who, like Librarians or Guidance Counselors, have an employment contract of slightly longer duration than other teachers.

The Association avers that Ms. Kaufman and Ms. Kasper have neither effectively recommended the hiring, discipline, discharge or non-renewal of personnel, nor evaluated staff in a manner requiring independent judgment. The Association argues that the incumbents are full-time teachers who have been assigned and compensated for additional "lead worker" duties. The Association asserts that the Commission in Elmbrook Schools (7361) 11/65 has included principals who teach 50% or more of the regular teaching load in the collective bargaining unit of regular teachers.

Furthermore, the Association argues that the District's unilateral or voluntary providing of information relating to personnel and labor policies to the Assistant Principals through the mail or invitation to management meetings does not render such employees confidential. The Association contends that the District has supplied the Assistant Elementary Principals with labor relations information after the fact rather than relying upon the involvement or contribution of said employees in the provision or determination of such information or policies.

DISCUSSION.

In certain instances, the Commission has previously included teaching Principal positions in units of certified teachers on the basis that their

"supervisory" duties have been largely clerical and that their community of interest resides with the regular teachers. 3/ As full-time teachers, the incumbents spend the preponderance of their working time performing the same teaching duties as other teachers in the building. There is no indication that the Assistant Elementary Principals have exercised independent judgment or authority with regard to other employees which "offset their common teaching activities." 4/ Participation in the hiring process by the positions herein appears to have been perfunctory rather than determinative. Furthermore, we have concluded that the submission of staff "evaluations" by the Assistant Elementary Principals to the respective Elementary Principals have been routine operational reports limited to denoting problems with personnel and facilities. Whereas the positions herein have functioned as lead workers in terms of a given school's educational program and community involvement, the remainder of their administrative duties appear to be basically clerical in nature. We are satisfied that the Assistant Elementary Principals in Concord and Lebanon schools are not supervisory employees within the meaning of Section 111.70.

The Commission has consistently determined an employee's confidential status by the individual's access to, or participation in confidential matters relating to labor relations. 5/ Furthermore, we have held that the "mere vesting of some minor confidential functions in an employee where other confidential employees are available . . ." 6/ or the "possibility that . . . an employee may be assigned confidential duties" 7/ are not grounds for excluding employees from the unit.

In the instant proceeding, the incumbents have been provided with administration memos concerning teacher-labor relations. We are satisfied that such involvement constituted notification of management decisions rather than contribution to or participation in the formulation of personnel policies. There is no indication that the Assistant Elementary Principals have, to date, had access to any confidential records or information with respect to negotiations or grievances. 8/ The possibility of future involvement in labor relations does not presently warrant a determination that the employees herein are confidential.

Based on the foregoing, the Commission is satisfied that the positions of Assistant Elementary Principal are neither supervisory nor confidential

3/ Brown County Handicapped Children's Education Board (12301) 11/73, Elmbrook Schools (7361) 11/65, Janesville Board of Education (6678) 3/64, Menomonee Joint School District #1 (12241-A) 12/73, Stanley - Boyd Area Schools (11589-A) 7/73.

4/ Stanley - Boyd Area Schools (11589-A) 7/73.

5/ City of Milwaukee (11971) 7/73.

6/ Menomonee Falls Jt. School Dist. #1 (11669) 3/73, Cudahy Board of Education (12087) 8/73.

7/ Outagamie County (11923) 6/73.


8/ Village of Greendale (11019) 5/72.

and thereby appropriately included in the existing collective bargaining unit of certified teachers.


Dated at Madison, Wisconsin this 25th day of March, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Zel S. Rice II, Commissioner


Howard S. Bellman, Commissioner