

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of	:	
	:	
MENOMONEE FALLS PUBLIC SCHOOLS JOINT	:	
DISTRICT NO. 1	:	
	:	Case VII
Involving Certain Employes of	:	No. 17035 ME-965
	:	Decision No. 12516
MENOMONEE FALLS PUBLIC SCHOOLS JOINT	:	
DISTRICT NO. 1	:	
	:	

Appearances:

Mr. John F. Maloney, Mulcahy & Wherry, S.C., Attorneys at Law, appearing on behalf of the Petitioner.
Mr. Richard Perry, Perry & First, Attorneys at Law, appearing on behalf of the Menomonee Falls Education Association.

ORDER CLARIFYING COLLECTIVE BARGAINING UNIT

Menomonee Falls Public Schools Joint District No. 1 having requested the Wisconsin Employment Relations Commission to issue an Order determining whether the positions of Assistant Athletic Director and Director of Guidance are to be included in a present collective bargaining unit consisting of certified teaching personnel in its employ; and hearing on said petition having been held at Milwaukee, Wisconsin, on September 19, 1973, Sherwood Malamud, Hearing Officer, being present; and the Commission having reviewed the evidence, arguments and briefs of Counsel, and being fully advised in the premises, makes and issues the following

ORDER

That the appropriate collective bargaining unit of certified teaching personnel in the employ of the Menomonee Falls Public Schools Joint District No. 1 includes the positions of Assistant Athletic Director and Director of Guidance.

Given under our hands and seal at the City of Madison, Wisconsin, this 4th day of March, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
 Morris Slavney, Chairman

Zel S. Rice II
 Zel S. Rice II, Commissioner

Howard S. Bellman
 Howard S. Bellman, Commissioner

MENOMONEE FALLS PUBLIC SCHOOLS JOINT DISTRICT NO. 1, VII,
Decision No. 12516

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING COLLECTIVE BARGAINING UNIT

Menomonee Falls Public Schools Joint District No. 1, hereinafter referred to as the District, recognized the Menomonee Falls Education Association, hereinafter referred to as MFEA, as the collective bargaining representative for all teachers and Guidance Counselors in the employ of the District, exclusive of substitute teachers, teacher aides, office and clerical employes, psychologists, pschometrists, (psychometrist), social workers, reading consultants, Director of Reading, Area Coordinators, Administrators, supervisors and those employes not holding a teachers certificate. The recognition clause contained in the 1973-1974 collective bargaining agreement includes the positions of Assistant Athletic Director and Director of Guidance. However, the parties stated in their collective bargaining agreement that they were unable to agree as to the inclusion of these positions from the unit and they would jointly petition the Wisconsin Employment Relations Commission to determine whether the positions should be included or excluded from the bargaining unit.

ASSISTANT ATHLETIC DIRECTOR

The District maintains two high schools. The one Athletic Director employed by the District is in charge of athletics at East High School. He is not included in the unit. The Assistant Athletic Director, William Manchester, is in charge of the athletic program at North High School, and receives substantial pay differentials for his duties as Assistant Athletic Director and for his duties as football coach. He teaches physical education two and one-half hours per day, whereas, the normal workload for a physical education teacher is five and one-half hours per day.

Manchester performs the following duties relative to the athletic program and in his relationship with teacher-coaching personnel and other personnel employed by the District. He engages teachers to act as ticket-takers, time keepers, scorers, etc. for the various sporting events. However, the Athletic Director engages the officials or referees for the various sporting events. Manchester participates in the evaluation of the performances of 35 part time coaches. During the two years in which he has served as Assistant Athletic Director, Manchester has orally reprimanded a coach for laxity in supervision of students under his control, interviewed candidates for a swimming coach position, and orally recommended one of the applicants to the Athletic Director. The Athletic Director also interviewed both candidates, and the applicant who received Manchester's recommendation was hired for the position.

Manchester calls meetings of the coaches, at which meetings the athletic program is discussed. At Manchester's direction, the basketball coach established a job description and workload provision for the assistant basketball coaches, which was put into effect by Manchester. The assistant basketball coaches were not satisfied therewith and reported same to Manchester. The resolution thereof eventually involved participation by the Athletic Director, the Principal and Assistant Principal of North High School, and the assistant basketball coaches accepted the new workload which involved an increase in the number of games which the assistant coaches had to scout.

Manchester participates as a representative of North High School in the meetings of the Braveland Conference where schedules

and policy are determined for the member schools of the Conference. He votes on matters involving the conference independently of the Athletic Director, who also is a member of the conference as a representative of East High School. Manchester prepared the budget for the Athletic Department of North High School which he submitted to the Athletic Director. He is also in charge of and retains the keys for the various athletic facilities.

The District contends that, Manchester as the Assistant Director of Athletics is the head of the athletic program for North High School, and that as a result of his responsibilities over his fellow coaches, the position of Assistant Director of Athletics should be excluded from the unit. It is the Association's position that the Assistant Director of Athletics is analogous to the position of Department Chairmen, who call departmental meetings, prepare the departmental budget, participate in hiring, and who, like the Assistant Director of Athletics, maintain a substantial teaching load in addition to "administrative" responsibilities.

The Commission in the past has excluded athletic directors from a unit of teaching personnel on the basis of a confluence of supervisory, as well as managerial responsibilities, which inhere in that position. 1/ Although the Assistant Director of Athletics performs some functions which seem to indicate supervisory or managerial status, it is clear that the primary responsibilities for the hiring and supervision of coaches and for the preparation of a budget for athletics lies with the Athletic Director and Principal. The Commission concludes that the Assistant Athletic Director is required to perform at a high level of responsibility in accordance with his status as a professional employe, and recognizes that his position does rank him in certain respects above other teachers, as department chairmen are also situated; but the supervisory and managerial responsibilities of the Assistant Athletic Director as the head of the athletic program of North High School are, in the main routine and minor, and therefore not sufficient to warrant his exclusion from the collective bargaining unit.

DIRECTORS OF GUIDANCE

There are two Directors of Guidance employed by the District; one is Director at North High School, Mr. Schaller, and one is the Director at East, Mr. Adameak. Each receive a \$450 differential for performance of their directorial duties. Schaller has been a Guidance Counselor with the District for 13 years. Schaller divides and assigns the workload to the Counselors in his department. These assignments are affected by giving each Guidance Counselor a certain percentage of the students in the school. Schaller and Adameak each carry at least one-half the counseling load maintained by the other Guidance Counselors. Mr. Schaller orders the materials for his department and deals directly with the salesmen of those materials. He participates in the hiring of guidance personnel with the Principal of the school involved, and the Superintendent. Recommendations that he has made in this regard have been accepted.

Adameak, the Director of Guidance at North High School makes written evaluations of the three other counselors located at North. However, it is the evaluation signed by the Principal which is kept on file and shown to the teacher. Schaller makes oral evaluations of

1/ Joint School District No. 1, City of Wausau, Declaratory Ruling, Dec. No. 10371-A, 4/72; Waukesha District 8, Area Board of Vocational, Technical and Adult Education, Dec. No. 11076, 6/72.

the counselors located at East High School. Adameak has reprimanded a Guidance Counselor for excessive tardiness. No written warning was issued; the matter was discussed informally. To date he has not been involved in any serious disciplinary matters.

It is the position of the Association that the Director of Guidance position is analogous to that of the department chairmen. Ms. Seifert, the President of the Association and a Guidance Counselor testified that the directorship duties would only require a few minutes each day and would not take up much of the Director's time. However, she did refer to Adameak, and Adameak did refer to Schaller as their immediate supervisors, respectively.

It is the conclusion of the Commission that neither Director of Guidance has sufficient supervisory or managerial responsibilities to justify their exclusion from the collective bargaining unit. Again, it is clear that the employes involved have been assumed to possess professional expertise perhaps greater than that of others and have been assigned certain responsibilities that indicate superior status. However, in terms of the indicia of supervisory status, their position involves routine judgments and a minor role in the screening of job applicants.

Dated at Madison, Wisconsin, this 4th day of March, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Del S. Rice II
Del S. Rice II, Commissioner

Howard S. Bellman
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