

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	:	Case XXVIII
	:	No. 17997 ME-1068
For Clarification of the Bargaining	:	Decision No. 12897
Unit of Employes in the Employ of	:	
	:	
SHEBOYGAN JOINT SCHOOL DISTRICT NO. 1	:	
	:	

Appearances:

Mr. Michael J. Wilson, District Representative, for the Petitioner.
Mr. Douglas M. Born, Director of Personnel, for the Municipal Employer.

ORDER CLARIFYING BARGAINING UNIT

Pursuant to a stipulation filed by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, and Sheboygan Joint School District No. 1, the Wisconsin Employment Relations Commission on May 4, 1973, directed an election among "all teacher aides employed by Sheboygan Joint School District No. 1, City of Sheboygan, et al, excluding secretarial and clerical employes, custodial and maintenance employes, teachers and supervisors"; that pursuant to said Direction, an election was conducted among said employes, and on June 19, 1973, following said election, said Labor Organization was certified as the exclusive collective bargaining representative of the employes in said unit; that thereafter and on May 30, 1974, said Labor Organization filed a petition initiating the instant proceeding requesting the Commission to clarify the certified collective bargaining unit, specifically, to determine whether para-professional employes should be permitted to accrete to the existing certified collective bargaining unit; and hearing on such petition having been held at Sheboygan, Wisconsin, on July 11, 1974, Sherwood Malamud, Hearing Officer, being present; and the Commission having considered the evidence and arguments of the parties, and being satisfied that the para-professionals should be accreted to the existing certified collective bargaining unit involved;

NOW, THEREFORE, it is

ORDERED

That the para-professional employes in the employ of Sheboygan Joint School District No. 1 be, and the same hereby are, accreted to the existing certified collective bargaining unit presently represented by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, and its Local 1750, and, therefore, said appropriate collective bargaining unit is deemed to be amended to read as follows:

"all teacher aides and para-professional employes employed by Sheboygan Joint School District No. 1, City of Sheboygan, et al, excluding secretarial and clerical employes, custodial and maintenance employes, teachers and supervisors."

Given under our hands and seal at the City of Madison, Wisconsin, this 26th day of July, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman

Howard S. Bellman, Commissioner

MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT

During the course of the hearing on the instant petition it was established that the parties, in the election previously conducted by this Commission, the results of which were certified in June of 1973, ^{1/} had agreed to exclude the para-professionals from the employes eligible to vote. The basis for such exclusion was the joint belief of the parties that the funding for the individuals occupying such positions would not become available, and, thus, the positions would be eliminated. However, since the conduct of that election, the funding for said positions has continued, and, therefore, the positions have not been eliminated. It is to be noted that the existing collective bargaining unit does not exclude para-professional employes from the unit, and, however, that "teacher aides" identify the only employes in the unit.

The record in the instant proceeding establishes that the para-professionals involved perform duties similar to those performed by teacher aides and that, in addition, individuals seeking employment as teacher aides and/or para-professionals are employed from similar sources.

The Union desired the Commission to order the para-professionals to be accreted to the existing unit without an election. The Municipal Employer, on the other hand, desired that the para-professionals be given an opportunity to express their choice on the matter of accretion. However, during the course of the hearing the parties executed a stipulation permitting the "para-professionals" to determine for themselves whether they desire to accrete to the existing unit, and therein stated the unit to be as follows:

"all teacher aides employed by Sheboygan Joint School District No. 1, City of Sheboygan, et al, excluding secretarial and clerical employes, custodial and maintenance employes, teachers and supervisors."
(Emphasis added)

However, the agreed list of eligibles indicated that it was the intent that only the "para-professionals" would be eligible to vote in the accretion election. It is obvious from the stipulation that the parties recognize that the "para-professionals" are deemed to be "teacher aides."

The Commission rejects the stipulation for the reason that to permit such a vote among the excluded teacher aides/para-professionals, who were previously excluded from the list of eligibles in the original election, on the probability that the positions would be eliminated, could possibly result in the creation of two "teacher aide or para-professional" units. Such a result is contrary to the letter and spirit of the Municipal Employment Relations Act, which opposes the fragmentation of bargaining units. To avoid this possibility, the Commission has concluded that all teacher aides and para-professionals should be included in one unit, and, therefore, we have accreted the previously excluded "teacher aides/para-professionals" to the existing certified bargaining unit, and specifically amending the description of the unit so that there is no question as to the identity of the employes included therein.

Dated at Madison, Wisconsin, this 26th day of July, 1974.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Thomas Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner