

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
WISCONSIN FEDERATION OF TEACHERS,
LOCAL 3271

Requesting Clarification of the
Bargaining Unit Involving
Professional-Education Employees
in the Employ of

STATE OF WISCONSIN,
DEPARTMENT OF ADMINISTRATION

Case II
No. 18632 SE-68
Decision No. 13250-B

Appearances:

Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr., appearing on behalf of the Petitioner.
Mr. Lionel L. Crowley, Attorney at Law, State of Wisconsin, Department of Administration, Employment Relations Section, appearing on behalf of the State of Wisconsin.

ORDER CLARIFYING BARGAINING UNIT

Wisconsin Federation of Teachers, Local Union No. 3271, having on December 19, 1974 filed a petition with the Wisconsin Employment Relations Commission, requesting the Commission to determine whether individuals occupying the classifications of Architect 5 and Administrative Officer 1 (Grants and Contracts), employed by the State of Wisconsin in the Board of Vocational, Technical and Adult Education, should, or should not, be included in the state-wide Professional-Education unit, presently represented by said Union; and pursuant to a Notice of Hearing, and two postponements thereof, hearing having been held in the matter at Madison, Wisconsin on March 3, 1975, Chairman Morris Slavney being present; and the Commission, having considered the evidence, arguments and briefs of Counsel, and being fully advised in the premises, being satisfied that the classification of Architect 5 is not engaged in the profession of education and therefore such classification should not be included in the state-wide Professional-Education unit; that however, the Commission being satisfied that the classification of Administrative Officer 1 (Grants and Contracts) because of the training and duties performed by the occupant of such position is supportive of education, that such classification should be included in the state-wide Professional-Education unit;

NOW, THEREFORE, it is

ORDERED

(1) That the classification of Architect 5 be, and the same hereby is, excluded from the Professional-Education unit;

(2) That the classification of Administrative Officer 1 (Grants and Contracts) be, and the same hereby is, included in the state-wide Professional-Education unit. 1/

Given under our hands and seal at the
City of Madison, Wisconsin this *29th*
day of October, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney /s/
Morris Slavney, Chairman

Howard S. Bellman /s/
Howard S. Bellman, Commissioner

Herman Torosian /s/
Herman Torosian, Commissioner

1/ During the hearing the State contended that said classification was supervisory, however, there was insufficient evidence in the record for the Commission to make a determination as to said supervisory status. The determination herein is not intended to preclude the State from seeking a determination as to said supervisory status, and it may do so by filing a petition for that purpose.

Vocational, Technical and Adult Education Plan and federal requirements are met on all construction projects. Consult with district personnel and aid Director, Staff, and Board in developing a long range facility plan."

The Union contends that since Knudson, as an Architect 5, performs the same duties as were performed by Schantz, as a Vocational Education Consultant 2, Knudson should be included in the Professional-Education unit. However, the State contends, among other things, that Knudson as an Architect 5 is not engaged in the profession of education, and therefore should not be included in the Professional-Education unit.

We are satisfied, and the record establishes, that Knudson, as an Architect 5, is not engaged in the profession of education. The requirements for the position, as well as the duties performed by the occupant thereof, indicates that the position is filled by a professional architect. The fact that the Architect 5 provides services to educational institutions does not constitute a basis for including the Architect 5 classification in the Professional-Education unit.

Administration Officer 1

The BVTAE, late in December 1974, employed a new classification of Administrative Officer 1, with an additional working title of (Grants and Contracts). Said position was filled by Robert Gilbertson. Gilbertson has a masters degree in education and was the only applicant for the position. At the time the Union was certified as the collective bargaining representative for the employes in the unit involved herein, said classification was not among the classifications included in the Professional-Education unit. The duties and responsibilities of the classification of Administrative Officer 1 (Grants and Contracts) are set forth in the position's description as follows:

"The office of Grants and Contracts is responsible for developing a joint WLVTA and District VTAE grants and contracts system involving the following duties and responsibilities:

1. Establishment of a grants and contracts information center containing detailed information on federal legislation, federal program rules and regulations and guidelines and report forms.
2. Publication of the grants and contracts newsletter providing insight into federal and foundation program activities.
3. Information dissemination in recent changes in federal programs and grants available.
4. Preparation of an application and deadline report listing closing dates for applications.
5. Grantsmanship development - provide training for VTAE staff in the preparation of applications for grants.
6. Federal and foundation liaison. Serving as VTAE liaison officer concerning federal program applications and contracts.
7. Endowment fund development including the establishment of foundation status for the WDVTAE.

8. Analysis of federal rules and regulations affecting grants and contracts program.
9. VTAE clearing house officer for OMB circulars.
10. Development and review of grants and contracts information system.
11. Primary negotiator for VTAE system and State Board regarding grant and contract relationships with federal government and private foundations."

The majority of the duties performed by Gilbertson had been and also continue to be performed by two other employes in the BVTAE, Sherman Ansell and Roland Krogstad, having the classification of Vocational Education Consultant 1, which is in the bargaining unit. However, Ansell and Krogstad seek funds from the federal government, whereas Gilbertson's duties include seeking funds from private sources as well as from the federal government. Ansell and Krogstad have been, and still are, analyzing federal rules and regulations with respect to federal funding, however, Gilbertson's analysis will be more extensive. Both Ansell and Krogstad have, and will continue, at least to some degree, to prepare applications and reports with respect to seeking funds, however, Gilbertson will be expected to do a majority of such work.

The classification of Administrative Officer 1 is prevalent throughout the state service and as was noted in the "Classification Description", the "Areas of Specialization" are set forth as follows "Staff Services", "General Administration", "Specialized Program Administration" or "Combination thereof". The "Required Knowledge, Skills and Abilities" include "Comparable knowledge of the proper area of specialization".

The organizational chart, wherein Gilbertson's classification is shown, indicates that an Administrative Assistant 5 and two Educational Services Interns are attached to the Administrative Officer 1. However at the time of the hearing said three positions were not completely filled. Gilbertson is directly responsible to an Administrative Officer 3, John Kroll, who is also assigned one Administrative Assistant 3.

The Union contends that Gilbertson's classification should be included in the unit since he is performing unit work, and in that regard, the Union emphasizes the fact that Gilbertson has a masters degree in education, and that he was the only applicant for the position, and in all probability was selected because of his training in educational matters.

The State Employer contends that Gilbertson is performing an administrative rather than an education function. It argues that the duties of Ansell and Krogstad involve developing educational programs to utilize grants and federal funds, whereas Gilbertson's duties involved acquisition of said funds and at the same time admits the occupants of both classifications have some knowledge in both fields. The State further contends that the Union is attempting to establish a departmental unit since the Union does not seek to include all Administrative Officers 1 employed in the State service. The State contends that, at the time of the hearing, the position was expected to be that of a supervisory position since two positions under the Administrative Officer 1 had been filled and the third was being recruited. The State requests the Commission to take judicial notice of the "Classifications and Opportunity Bulletin" submitted with its brief, wherein supervisory duties are set forth in said document.

The Commission is satisfied that the classification and working title assigned to Gilbertson, namely Administrative Officer 1 (Grants and Contracts), because of the training and experience, as well as the duties performed by Gilbertson, are supportive of the educational process and services performed by the BVTAE, and therefore, unless Gilbertson performs supervisory duties, the Commission is satisfied that the classification involved should be included in the Professional-Education unit.

There was no evidence adduced on the record as to the nature and extent of the "supervisory" responsibilities and duties performed by Gilbertson. If the positions assigned to Gilbertson have been completely filled, the State is not precluded from seeking a determination from the Commission as to whether Gilbertson is a supervisor within the meaning of the State Employment Labor Relations Act, and if it does so the Commission will set a hearing in the matter to take evidence material to the supervisory issue.

Dated at Madison, Wisconsin this 29th day of October, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney /s/
Morris Slavney, Chairman

Howard S. Bellman /s/
Howard S. Bellman, Commissioner

Herman Torosian /s/
Herman Torosian, Commissioner