

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

WEYERHAUSER TEACHERS

Involving Certain Employees of

WEYERHAUSER JOINT SCHOOL DISTRICT NO. 3 :

Case IV

No. 18635 ME-1142

Decision No. 13395

Appearances:

Mr. Allen Guthman, appearing on behalf of the Petitioner.

Mr. Allan Ormson, Superintendent of Schools, appearing on behalf
of the Municipal Employer.

Mr. Robert West and Mr. Allan Manson, appearing on behalf of
Intervenor United Teaching Profession, NUE, WEA, WEAC, NEA.

DIRECTION OF ELECTION

Weyerhauser Teachers, having petitioned the Wisconsin Employment Relations Commission to conduct an election pursuant to the Municipal Employment Relations Act, in a bargaining unit consisting of all teachers employed by Weyerhauser Joint School District No. 3; and hearing on said petition having been conducted on January 15, 1975 at Ladysmith, Wisconsin, Sherwood Malamud, Hearing Officer, being present; and during the course of the hearing United Teaching Profession, NUE, WEA, WEAC, NEA, having been permitted to intervene on the basis that it is the voluntarily recognized collective bargaining representative of employees in said unit; and the Commission having considered the evidence and positions of the parties, and being satisfied that a question has arisen concerning representation for certain employees of Weyerhauser Joint School District No. 3;

NOW, THEREFORE, it is

DIRECTED

That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive in the collective bargaining unit consisting of all employees of the Weyerhauser Joint School District No. 3 engaged in teaching, including classroom teachers, guidance counselors, speech therapists and librarians, but excluding administrators, principals, supervisors, coordinators, substitute teachers, non-instructional personnel such as nurses, teacher aides, social workers, office, clerical, maintenance, transportation and operating employees, and all other employees, who were employed by the Municipal Employer on January 15, 1975, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether

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a majority of such employes desire to be represented by Weyerhaeuser Teachers, or by United Teaching Profession, NUE, WEA, WEAC, NEA, for the purpose of collective bargaining with the above-named Municipal Employer on questions of wages, hours, and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin, this 28th
day of February, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

At the outset of the hearing, Intervenor, with the approval of the Municipal Employer, moved to amend Petitioner's description of the unit from consisting of "Weyerhauser Teachers, excluding non-teaching school employees" to the description of the unit contained in the 1974-1975 collective bargaining agreement existing between the Intervenor and the Municipal Employer, which also includes guidance counselors, speech therapists and librarians. Petitioner objected to Intervenor's amended description on the ground that the Municipal Employer does not presently employ guidance counselors or librarians. The Commission is satisfied that the amended description contained in the collective bargaining agreement properly describes the unit, and it is so reflected in the Direction.

An issue arose concerning the eligibility of Gloria Devine, a federally funded Title I part-time remedial math teacher to participate in the election. The Municipal Employer argues that Devine was hired solely because of the availability of federal funds. Furthermore, Article II, the Negotiations Procedures, of the collective bargaining agreement, contains the following exclusion:

"Any agreement so negotiated shall apply to all local board contracted teachers, but will not include aides, Federal Title teachers and CESA contracted teachers."

Due to that exclusion, Devine presently is not included in the voluntarily recognized unit. Intervenor argues that Devine is a certified teacher; she teaches students half-time, and therefore she should be included in the unit.

Devine performs the same teaching functions as other teachers of the Municipal Employer. The Commission has held that employees will not be excluded from a collective bargaining unit solely on the basis of the federal or state source of funding for that employee's position. ^{1/} The sole basis for the Municipal Employer's objection is the source of funds for Devine's position. Although Intervenor and the Municipal Employer have excluded Devine from coverage of the collective bargaining agreement, under Section 111.70(4)(d) of the Municipal Employment Relations Act, the Commission is charged with the authority of establishing appropriate collective bargaining units in the municipal sector. Thus, under that authority, and in accordance with its policy regarding funding on eligibility questions explicated above, the Commission has concluded that Devine should be included in the collective bargaining unit and therefore she is eligible to participate in the election.

Dated at Madison, Wisconsin, this ^{28th} day of February, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*
Morris Slavney, Chairman
Howard S. Bellman
Howard S. Bellman, Commissioner
Herman Torosian
Herman Torosian, Commissioner

1/ Blackhawk Vocational, Technical and Adult Education District No. 5, (11725-A) 7/73; Adams-Friendship Area Schools (11881) 5/73.