

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	Case VII
MILWAUKEE DISTRICT COUNCIL 48,	:	No. 18447 E-2880
AFSCME, AFL-CIO	:	Decision No. 13424
	:	
Involving Certain Employees of	:	Case VIII
GOODWILL INDUSTRIES-MILWAUKEE	:	No. 18448 E-2881
AREA, INC.	:	Decision No. 13425
	:	

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Appearances:  
Goldberg, Previant & Uelmen, Attorneys at Law, by Mr. John S. Williamson, Jr., for the Petitioner.  
Foley & Lardner, Attorneys at Law, by Mr. George D. Cunningham, for the Employer.

DIRECTION OF ELECTIONS

Milwaukee District Council 48, AFSCME, AFL-CIO, herein referred to as Petitioner, having by petitions filed November 4, 1974, requested the Wisconsin Employment Relations Commission to conduct elections among certain employees of Goodwill Industries - Milwaukee Area, Inc., herein referred to as the Employer; and a hearing on such petitions having been opened by Stanley H. Michelstetter II, a member of the Commission's staff, on January 28, 1975 and concluded on February 3, 1975, in Milwaukee, Wisconsin; and the Commission having considered the evidence and being satisfied that questions have arisen concerning the appropriate collective bargaining unit and concerning representation for certain employees of the Employer;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within sixty (60) days from the date of this Directive in the following voting groups for the following stated purposes:

Voting Group No. 1

All regular professional employees of Goodwill Industries - Milwaukee, Area, Inc., excluding managerial, supervisory, confidential and all other employees, who were employed on January 26, 1975 except such employees as may prior to the election quit or be discharged for cause, for the purpose of determining: (1) whether a majority of such employees desire to establish themselves as a separate unit for the purposes of collective bargaining; and (2) whether a majority of such employees desire to be represented for the purposes of collective bargaining by Milwaukee District Council 48, AFSCME, AFL-CIO, or by no organization.

Voting Group No. 2

All regular part-time store employees of Goodwill Industries - Milwaukee Area, Inc., excluding managerial, supervisory, confidential and all other employees, who were employed on January 26, 1975 except

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such employees as may prior to the election quit or be discharged for cause, for the purposes of determining: (1) whether a majority of such employees desire to establish themselves as a separate unit for the purposes of collective bargaining; and (2) whether a majority of such employees desire to be represented for the purposes of collective bargaining by Milwaukee District Council 48, AFSCME, AFL-CIO or by no organization.

Voting Group No. 3

All regular employees of Goodwill Industries - Milwaukee Area, Inc., excluding professional employees and part-time store employees who have voted to constitute themselves a separate bargaining unit, managerial, supervisory, confidential, and transportation department employees and nurses, who were employed on January 26, 1975, except such employees as may prior to the election quit or be discharged for cause, for the purpose of determining whether a majority of such employees desire to be represented for the purposes of collective bargaining by Milwaukee District Council 48, AFSCME, AFL-CIO or by no organization.

Given under our hands and seal at the  
City of Madison, Wisconsin this 10<sup>th</sup>  
day of March, 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 DIRECTIONS OF ELECTIONS

During the course of the hearing, the parties stipulated that certain employees were professional employees engaged in the profession of social services, and that the part-time store employees constitute a separate division of the Employer. We find no inconsistency with our policy in those stipulations.

The Petitioner is seeking a unit determination election for the professional employees pursuant to Section 111.05(2). 1/ The Employer opposes that request on the basis that the Commission must find that a single profession has a community of interest separate from that of the non-professionals before it concludes that they are a "craft" and thus eligible for a unit determination election. The Employer further asserts that the instant professionals have no such community of interest.

We have consistently held that professional employees are "craft" employees within the meaning of Section 111.02(6) because, like the practitioners of the skills conventionally referred to as "crafts", their training requirements and career aspirations make it very likely that such employees have a community of interest separate from non-craft employees. 2/ However, contrary to the Employer's assertion, this difference is recognized by the Wisconsin Employment Peace Act by reserving to professional employees, and not to the Commission, the opportunity to determine for themselves whether they desire to constitute a unit separate and apart from the remaining employees of the Employer. 3/ We have, therefore, directed a unit determination vote for the professionals.

Since the parties agreed that part-time employees constituted a separate division they too have been given an opportunity to determine whether they desire to constitute themselves a separate unit. The sequence of counting the ballots will be as follows: (1) ballots cast by professionals as to their desire to be included in a unit with employees in Voting Group No. 3 will be tallied first; (2) if a majority of the eligible professional employees do not vote in favor of inclusion with employees in Voting Group No. 3, the representation ballots cast by the professional employees and placed in sealed envelopes marked "professional" will be opened and counted separately from any other representation ballots; and (3) if the professional employees vote in favor of being included in a unit with employees in Voting Group No. 3 the Commission agent conducting the balloting will open the envelopes marked "professional", remove the ballots therefrom and then shall co-mingle the ballots cast by the professionals with those cast by the employees in Voting Group No. 3 and thereupon tally the combined ballots.

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- 1/ All citations to statutes herein refer to the Wisconsin Employment Peace Act.
  - 2/ Evangelical Deaconness Hospital (296) 9/41; Saint Anthony's Hospital (4762-A) 7/58; Mill-Way Nursing Home (6355-A) 9/63; Fort Atkinson Memorial Hospital, (9580) 4/70.
  - 3/ Bellin Memorial Hospital (8518) 4/68; Fort Atkinson Memorial Hospital, supra; St. Michael's Hospital (12139) 9/73 at p. 4.

The same balloting procedure will be utilized for the part-time employees, and they will be instructed to place their representation ballots in envelopes marked "part-time employee."

The unit determination and election shall be conducted as follows:

1. The professional employees will be given separate unit determination representation ballots. Their unit determination ballots will be tallied first. If a majority of the craft unit vote to establish a separate unit, their representational ballots will be tallied separately. If a majority of the unit does not so vote, their representational ballots will be included with the ballots of the overall unit.
2. The part-time store employees will also be given separate unit determination and representational ballots. Their unit determination ballots will be tallied next. If a majority of that departmental unit votes to establish a separate unit, their representational ballots will be tallied separately. If a majority of that departmental unit does not so vote, their representational ballots will be included with the ballots of the overall unit.
3. The representational ballots of the overall unit and any separate unit will be tallied last.

Dated at Madison, Wisconsin this 10<sup>th</sup> day of March, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Howard S. Bellman  
Howard S. Bellman, Commissioner

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