

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 XII
	:	No. 18854 ME-1160
Involving Certain Employes of	:	Decision No. 13617
	:	
JANESVILLE JOINT SCHOOL DISTRICT	:	
NO. 1	:	
	:	

Appearances:

Mr. Darold O. Lowe, District Representative, appearing on behalf of the Petitioner.

Mr. William Young, Business Affairs Director, appearing on behalf of the Municipal Employer.

DIRECTION OF ELECTION

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct a representation election, pursuant to the Municipal Employment Relations Act, in a bargaining unit consisting of all clerical employes and teacher aides employed by Janesville Joint School District No. 1; and a hearing on said petition having been conducted at Janesville, Wisconsin on March 19, 1975, by Hearing Officer Douglas V. Knudson on behalf of the Commission; and the Commission having considered the evidence and arguments of the parties, and being satisfied that a question has arisen concerning representation for certain employes of the Municipal Employer;

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 full-time and regular part-time clerical employes and instructional aides employed by Janesville Joint School District No. 1, excluding supervisors, professional, craft and confidential employes, and all other employes, who were employed by Janesville Joint School District No. 1 on March 19, 1975, 1/ except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes desire to be represented

1/ The parties stipulated to said eligibility date.

by the Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, for the purpose of collective bargaining with Janesville Joint School District No. 1, on the questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin, this 7th day of May, 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

In its petition, the Union described the appropriate unit as "all clerical employees and teacher aides of the Janesville Board of Education, excluding supervisors, professional, confidential, craft employees, and all other employees of the Janesville Board of Education." During the course of the hearing, the parties agreed to replace the words "teacher aides" with the words "instructional aides." The School District would include the words "full-time and regular part-time" in the description of the collective bargaining unit. The Union believes said revision to be unnecessary because the Commission excludes casual employes from bargaining units. The Commission concludes that the inclusion of the words "full-time and regular part-time" is appropriate because it reflects the clear intent of the parties herein.

The School District, contrary to the Union, asserted that certain positions should be excluded from the collective bargaining unit for reasons which are set forth in the following discussion.

FEDERALLY FUNDED POSITIONS

The School District argues that all federally funded positions should be excluded from the collective bargaining unit because of the uncertainty of continued federal funds for said positions. The Commission has held that mere funding of employe wages by another unit of government is not a sufficient basis for the exclusion of said employes from a collective bargaining unit. 2/ Accordingly, the Commission concludes that employes occupying federally funded positions should be included in the collective bargaining unit and are eligible to vote in the election directed herein.

PART-TIME EMPLOYES

The School District would exclude part-time employes who are scheduled to work three hours, or less, per day during the school year because they are not eligible for Social Security or retirement contributions under the Municipal Employer's programs. The record reveals that said employes receive certain other fringe benefits, such as paid holidays and sick leave, which are received by part-time employes scheduled to work more than three hours per day. Further, the wage rates for all part-time employes are determined by the duties performed, rather than the daily number of hours scheduled to be worked. Certain duties are common to employes working less than three hours daily and to employes working more than three hours daily. The Commission concludes that the employes scheduled to work three or less hours per day share a community of interest in their wages and conditions of employment with the part-time employes scheduled to work more than three hours per day. Regular part-time employes, regardless of hours worked, are eligible to participate in an election, 3/

2/ Vernon County (Sheriff's Dept.) (13451) 3/75; Kewaunee County (13185) 11/74.

3/ City of Edgerton (11340) 10/72.

and, therefore, part-time employes who are scheduled to work three hours or less per day are eligible to participate in the election directed herein.

RECREATION DEPARTMENT EMPLOYES

The School District would exclude from the collective bargaining unit the two clerical employes employed in the Recreation Department, since said Department has a separate budget established by the Janesville City Council, rather than by the Fiscal Board which establishes the School District's budget, and, further, because only residents of the City of Janesville can participate in Recreation Department programs, while the School District's geographic boundaries extend beyond the Janesville City limits.

The two clerical employes are supervised by the Director of Recreation who in turn reports to the Superintendent of Schools. Said two employes were hired through the School District's Personnel Office, receive their payroll checks from the School District's Payroll Office, participate in the same fringe benefit programs provided to the School District's employes, and, are paid salaries comparable to the salaries received by clerical employes of the School District performing similar duties. Clearly, the School District has retained control of the wages and working conditions of the two clerical employes. The Commission concludes that the two clerical employes in the Recreation Department share a community of interest in their wages, hours and conditions of employment with the other members of the collective bargaining unit established herein, and hereby are included in said unit.

CONFIDENTIAL EMPLOYES

The parties stipulated to exclude from the collective bargaining unit the following positions as confidential; the secretary to the Superintendent, the secretary to the Business Affairs Director and the Administrative Assistant. The School District would further exclude as confidential employes, two clerical employes in the Personnel Department and two clerical employes in the Payroll Department. The Union contends that the amount of confidential work does not justify any additional exclusions.

The two Personnel Clerks maintain the confidential personnel files for the approximately 1,300 employes of the School District. Said employes are involved in salary surveys, in gathering information from other departments of the Municipal Employer, in the analysis of proposals by the professional employe unit, and in the preparation of proposals and counterproposal alternatives for the School District's committee during negotiations with its professional employe bargaining unit.

The two Payroll Clerks assist the Business Affairs Director in preparing cost impact analyses of Union requests and of counterproposals, or alternatives, for possible use by the Business Affairs Director during his negotiations with the custodial and food services bargaining unit. The Payroll Clerks also assist in conducting wage surveys relating to said unit and answer numerous employe questions concerning the interpretation of salary schedules and fringe benefit programs. While the above activities do not occupy a large portion of the Payroll Clerks' time, the record establishes that the Business Affairs Director relies heavily on their cost analyses in his determination as to the most desirable direction in which to move in negotiations with the Union.

On the basis of the foregoing facts, the Commission is satisfied that the Personnel Clerks and the Payroll Clerk positions are confidential and that said positions should be excluded from the bargaining unit. 4/

Dated at Madison, Wisconsin, this 7th day of May, 1975.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*
Morris Slavney, Chairman

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4/ Menasha Joint School District No. 1 (11256) 8/72.