

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
MADISON TEACHERS, INC.
For Clarification of a Bargaining
Unit Consisting of Certain Employees of
MADISON METROPOLITAN SCHOOL DISTRICT

Case I
No. 9691 ME-150
Decision No. 6746-D

In the Matter of the Petition of
MADISON TEACHERS, INC.
For Clarification of the Collective
Bargaining Unit Consisting of Certain
Employees of
MADISON METROPOLITAN SCHOOL DISTRICT

Case XXXIII
No. 19253 ME-1207
Decision No. 13735-A

Appearances:

Kelly and Haus, Attorneys at Law, by Mr. Robert C. Kelly, appearing
on behalf of the Petitioner.

Mr. Gerald C. Kops, Deputy City Attorney, appearing on behalf of
the Municipal Employer.

ORDER CLARIFYING BARGAINING UNIT AND AMENDING CERTIFICATION

Madison Teachers, Inc. having requested the Wisconsin Employment Relations Commission to issue a clarification of a bargaining unit consisting of certain employees of Madison Metropolitan School District, and hearing in the matter having been held at Madison, Wisconsin on September 30, October 1 and 17, November 17 and 18, 1975, January 20, 22 and 28, and February 9, 1976, Kay Hutchison, Hearing Officer, having been present; and the Commission having considered the evidence and arguments of the parties, and being fully advised in the premises, makes and files the following

ORDER

That the collective bargaining unit previously certified by the Wisconsin Employment Relations Commission 1/ to consist of "all regular full-time and regular part-time certified teaching personnel employed by Joint School District No. 8, City of Madison, et al., including psychologists, psychometrists, social workers, attendants and visitation workers, work experience coordinator, remedial reading teacher, University Hospital teachers, trainable group teachers, librarians, guidance counselors, teaching assistant principals (except at Sunnyside School), teachers on leave of absence, and teachers under temporary contract,

1/ Madison Jt. School Dist. #8, Dec. No. 6746, 6/64, as amended by Dec. No. 6742-B, 6/66 and Dec. 6746-C, 1/77.

but excluding on-call substitute teachers, interns and all other employees, principals, supervisors and administrators" is hereby amended and clarified to read as follows:

all regular full-time and regular part-time teaching and other related professional personnel who are employed in a professional capacity to work with students and teachers, employed by Madison Metropolitan School District including psychologists, psychometrists, social workers, attendants and visitation workers, work experience coordinator, remedial reading teacher, University Hospital teachers, trainable group teachers, librarians, cataloger, educational reference librarian, text librarian, Title I coordinator, guidance counselors, teaching assistant principals (except at Sunnyside School), teachers on leave of absence, and teachers under temporary contract, but excluding supervisor - cataloging and processing, on call substitute teachers, interns and all other employees, principals, supervisors and administrators.

Given under our hands and seal at the
City of Madison, Wisconsin this 4th
day of April, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By *Morris Slavney*
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

MEMORANDUM ACCOMPANYING ORDER CLARIFYING
BARGAINING UNIT AND AMENDING CERTIFICATION

The instant proceeding was initiated by the petition of Madison Teachers, Inc. filed with the Wisconsin Employment Relations Commission on June 11, 1975, requesting that the commission clarify an existing collective bargaining unit with respect to the appropriate inclusion or exclusion of certain positions in said unit. Initially the petitioner requested that the commission determine the appropriate inclusion or exclusion of the positions of: coordinator - Madison exchange; curriculum specialists - Title III, intergroup relations; manager, instructional support services; supervisor, cataloging and processing; cataloger; supervisor, audiovisual services; four curriculum coordinators (East, LaFollette, Memorial and West areas); coordinator of vocational education; coordinator of research and testing; coordinator of program development; coordinator of physical education; coordinator of safety education; coordinator of career education; coordinator of fine arts; coordinator of Title I; coordinator, Title III, CMI projects; coordinator - special educational services; coordinator - school community program; and program leader - school community program. During the course of the hearing conducted on various dates in the instant matter, the petitioner amended its petition to also request clarification with regard to the positions of educational reference librarian and text librarian. Subsequent to hearing on the foregoing positions, the petitioner withdrew its request for clarification for all positions with the exception of supervisor - cataloging and processing, cataloger, educational reference librarian, text librarian and coordinator - Title I.

The union contends that all of the latter positions should be appropriately included in the unit of certified teachers. The union, contrary to the municipal employer, argues the positions are not, supervisory or managerial and share a community of interest with certified teachers on the basis that they work in support of the educational process.

Supervisor - Cataloging and Processing

Instructional support services is one of four functional areas in the administrative services unit of the business office. The cataloging and processing center, located in central stores building, falls within the instructional support services unit. The function of the cataloging and processing center is to centrally order, catalog, process and distribute textbook and audio-visual materials to the 48 instructional material centers (IMC's) or libraries located in various elementary and secondary schools operated by the district and to the centralized, professional library maintained for the teaching staff.

The center is divided into four functional areas, specifically, acquisition, processing, cataloging and delivery. Four times a year, the center's staff prepares separate instructional material buying lists for elementary, middle school and senior high levels. The list is constructed from the recommendations of committees of local IMC staffs. A deck of IBM computer cards accompanies the buying list from which the librarians make selections and return the computer cards to the center for the procurement and processing of the desired materials. Rose Holmes is employed as the supervisor of cataloging and processing. The center also employs two catalogers and ten clerks. The clerks are in the non-professional clerical bargaining unit represented by Madison

Teachers, Inc. 2/ Four clerks are employed in the section responsible for the acquisition of materials from vendors; eight clerks work in the processing section which prepares the catalog and circulation card, card pocket and spine lettering; two catalogers and a clerk are assigned to the cataloging unit which classifies the text or audio visual material for retrieval and prepares the bibliographic card for the material; and two employees are employed in the section responsible for the delivery and distribution of the shelf-ready materials.

In addition to centrally ordering and processing educational materials, the center prepares statistical reports of library expenditures, maintains a computerized reference file of educational materials on hand and newly acquired, reports inventory, and arranges for the rebinding or withdrawal of old textbooks.

Rose Holmes has a masters degree in library science, as required by her position, and holds a teacher's certificate at the secondary level. Ms. Holmes has no role in the actual selection of educational materials. She does not work directly with students nor does she supervise any professional staff in school libraries; however, she does directly supervise the clerical employees. Ms. Holmes holds a 52 week employment contract. In the past, she has written a management by objective (MBO) contract with her immediate supervisor, the Manager of Instructional Support Services. The center's two catalogers, both of whom are professional librarians, require little supervision and have previously written MBO's with Ms. Holmes.

The supervisor of cataloging and processing is responsible for the overall operation of the center. She prepares the operating budget for the center. She has, on occasion, developed position descriptions, and participated in the interview of job applicants who are initially screened by the employee services division. Ms. Holmes has effectively recommended the hiring of employees in her section. The Supervisor assigns tasks and reviews the cataloging process. She trains employees and evaluates their performance. She may become involved in disciplinary matters and the grievance procedure affecting clerical personnel.

The union argued that the duties of the supervisor of cataloging and processing constitute the centralized portion of the work normally performed by school librarians. The supervisor, according to the union, works with teaching staff librarians and administrators in the development of recommended materials for purchase. The union contended that the supervisor is not involved in the hiring of certified personnel and does not supervise certificated bargaining unit personnel. (She does of course supervise the work of the clerks who are now represented by MTI.)

The union further asserted that the catalogers are professional librarians who work independently; that the supervisor essentially oversees their work activities and does not act as a supervisor of teacher unit personnel; and therefore, the position should not be excluded from the teaching bargaining unit. The union claims that there is no evidence that the supervisor participates in the formation or implementation of policy, and therefore is not a managerial employee.

2/ On January 20, 1977, the commission certified the results of a representation election in which Madison Teachers Incorporated became the certified bargaining representative of all of the District's full time and regular part-time employees engaged in secretarial, clerical, technical and related office duties. (Dec. No. 14814-B).

The Union contended that the incumbent works in support of the educational process and has a substantial background and training in education and teaching. For all of the foregoing reasons, the union holds that the supervisor of processing and cataloging is neither a supervisory nor managerial employer and therefore is properly included within the teacher bargaining unit.

The district argues that there is no community of interest between the Supervisor of cataloging and processing and the employees in the teacher bargaining unit. Ms. Holmes is employed in a function distinguishable from teaching, works in a physically separated location, has no student and little or no teacher involvement, and does not share common supervision with teachers. The municipal employer asserts that Ms. Holmes' possession of a teacher certificate or teaching experience is not required in her present position. The primary qualification for her job is a master's degree in library science. However, the incumbent's background and training in library science does not establish a community of interest between her and the school librarians because she is engaged in a district processing function.

The district further argues that Ms. Holmes' position is supervisory and managerial. The incumbent, according to the district, supervises the clerical employees and catalogers. She has managerial duties relative to budget preparation and the determination of basic cataloging and processing unit procedures. Accordingly, the municipal employer argued that the supervisor - cataloging and processing, should not be included in the teacher bargaining unit.

The commission is satisfied that the position of supervisor - cataloging and processing is appropriately excluded from the collective bargaining unit of certificated teacher and related professional staff on the basis of supervisory duties. Ms. Holmes clearly functions as management's representative in the supervision of the clerical employees and catalogers. Although none of these employees are in the petitioner's bargaining unit, the fact remains that Ms. Holmes functions as a supervisor and that supervisors are excluded by statute from the definition of employee, regardless of the unit status of the employees supervised. The incumbent is effectively involved in the hiring and evaluation process of employees. Having concluded that Ms. Holmes is a supervisor within the meaning of Section 111.70(1)(o)1 of the Wisconsin Statutes, it is not necessary to deal with the issues of her managerial status or the community of interest between her and unit employees.

CATALOGER

Kyjuan Ja Chung and Ron Goral are employed as catalogers in cataloging and processing. Whereas Ms. Chung works primarily with textbook materials, Mr. Goral is responsible for the cataloging of audio visual materials. The catalogers classify educational materials for retrieval. In the performance of such classification tasks, a cataloger uses the Dewey decimal system, Cutter's three-figure author table, Library of Congress proof slips, the Sears List, and other original or adjusted classification systems. The cataloger prepares a set of four cards for each cataloged item, specifically a main entry card, subject card, title card and shelf card. Ms. Chung's job description estimates her percentage of work time in the following duties as:

- "90% Cataloging and classification of instructional materials
- "5% Advise clerical staff on searching, processing, etc.
Revise the clerical work done for master source data for computer input
- "4% Consult co-workers and IMC staff in schools and curriculum area regarding cataloging and indexing needs
- "1% Attending meetings." 3/

A cataloger must possess a master's degree in library science. The district's school librarians have somewhat similar educational backgrounds but are distinguishable from catalogers in that school librarians are reference librarians who must be certified and work directly with library users while catalogers are technical service librarians who prepare material for use. A cataloger has no contact with district students but does deal with school librarians over the telephone concerning ordering information, materials to use, or methods of cataloging.

Ms. Chung testified that she has not taught and does not have a teaching certificate. She is presently compensated at salary range 1 (\$11,998) of the administrative pay scale. She is employed on a twelve month contract and had not written an MBO with her supervisor, Rose Holmes, for the current year.

The union argued that the cataloger is engaged in the centralized processing of educational materials which would otherwise be done by the school librarian. The cataloger, the union avers, is compensated within the range of teacher salaries. The cataloger maintains a collegial relationship with other professional staff, and, the union asserts, works in support of the educational process just as the school librarian does. The union argues that there is no basis upon which to conclude that the cataloger is a supervisory or managerial employee. Furthermore, there is a community of interest between other librarians in the bargaining unit and the catalogers in terms of educational function and compensation. The union asserts that the catalogers are appropriately included in the teacher bargaining unit which includes school librarians.

The district claims that no community of interest exists between catalogers and employees in the teacher bargaining unit. The cataloger does not have a teacher certification, has no involvement with pupils or teachers and has limited contact with school librarians. The municipal employer argues that the fact that the cataloger performs duties previously assigned to school librarians does not establish a community of interest. The cataloger's job function, work site and staff interaction, the district argues, are substantially dissimilar from those of employees in the teacher bargaining unit, thus warranting their exclusion from the same.

In order to carry out the principal of anti-fragmentation the commission will normally include in a bargaining unit of teaching personnel all professional personnel who work with students and teachers whether certified or not certified by the Wisconsin Department of Public Instruction. 4/

3/ Exhibit 29.

4/ Joint City School District No. 1, City of Superior et al (No. 13238-A) 6/29/76. For the commission's prior policy, see Janesville Board of Education (6678) 3/64; Appleton Joint School District No. 10 (7151) 5/65.

Because the certified bargaining unit conflicts with that policy we have amended the wording of the certification to reflect the commission's current policy. The commission is satisfied on the record presented that the catalogers working in the central warehouse do have a community of interest with employees in the teacher bargaining unit because of the nature of their work and their work with school librarians and are thereby appropriately included.

Educational Reference Librarian

Maryfaith Fox is employed in the research and development division as educational reference librarian in the professional library. The library is located in the central administration building and is maintained for the use of the district's entire professional staff. Ms. Fox selects, orders, processes and maintains the collection books, periodicals, microfilm research documents and other materials. She provides a ready reference service and extended subject searches pursuant to requests of teachers and other professionals. Ms. Fox researches particular questions, gathers materials, issues bibliographies, organizes collections of books and circulates materials for the benefit of staff. Ms. Fox serves on the Task Force for Low Enrollment Schools and on the IMC Steering Committee. The educational reference librarian handles some administrative tasks for school librarians.

Although the professional library is not organizationally attached to the Madison exchange (a facility devoted to the interchange of ideas and methods between district teachers), the educational reference librarian has written an MBO contract with the coordinator of the Madison exchange as part of a rotating arrangement for the implementation of the MBO program. Ms. Fox is employed on the basis of a 52 week contract at salary range 1 of the administrative pay plan. The position requires a master's degree in library science and although teaching experience is desirable, no teaching certificate is required. Ms. Fox has not taught and has no education credits or teaching certificate, unlike the school librarians who are certified by the department of public instruction.

Ms. Fox prepares the operational budget of the professional library for inclusion in the research and development budget. The educational reference librarian oversees a secretary who checks in materials, types purchase orders, and answers the telephone, and she also supervises student help who file catalog cards and shelve books.

The union argues that the duties of the educational reference librarian are similar to those of school librarians except that the users of the library service are staff members instead of students. The educational reference librarian works professionally with teachers, IMC staff and administrators in support of the educational process. The union avers that the educational reference librarian is neither a supervisory nor a managerial employee, shares a substantial community of interest with the teaching staff, and therefore should be included in the existing collective bargaining unit.

The district argues that the educational reference librarian has no instructional involvement with students, does not require a teaching certificate, and that the incumbent does not have school librarian certification. In terms of job function, qualifications, training, skills and method of compensation, the District asserts that there is no community of interest between the educational reference librarian and employees in the professional teaching unit.

As indicated above, the commission's policy is to normally include in a bargaining unit of teaching personnel all those professional personnel who work with students or teachers in support of the educational program regardless of whether they are certified by the department of public instruction. Because of her work with other teachers in support of the educational program and her lack of any substantial supervisory duties, it is appropriate to include the educational reference librarian in the teacher bargaining unit.

Text Librarian

The text librarian, Susan Bresnick, operates and maintains the district's text library in research and development. The library, located next to the professional library in the administration building, houses continuously updated textbooks and instructional materials on all subject matter for all grades. The purpose of the library is to present instructional materials for preview by the teaching staff prior to acquisition. The text librarian secures new texts of interest to teaching staff from book vendors either as complimentary copies or on loan. She spends approximately 40% of her time searching for new materials and 30% managing the text materials selection process. Ms. Bresnick deals primarily with teachers who are looking for classroom rather than library instructional materials. She consults with the various material selection, curriculum, and area reading committees in the district on the selection of classroom texts for purchase within the program materials selection process. Ms. Bresnick provides guidance and information to the text committees, and in addition she issues and files forms relevant to the selection process. There are approximately 90 committees involved in the selection process. She is the contact person for text suppliers.

The text librarian spends time in the classroom observing teachers using text materials and discussing their needs and suggestions for educational materials. The text librarian shares a collegial relationship with the educational reference librarian discussed above. Whereas the educational reference librarian provides teacher oriented material, the text librarian deals with student oriented material.

The position of text librarian requires a masters degree in library science and a background in education. Ms. Bresnick has a master in the art of teaching degree and a degree in library science and is certified as a teacher and librarian. However, the incumbent has neither teaching nor school librarian experience. Ms. Bresnick holds a 12 month administrative contract with an annual salary of \$10,800 and writes an MBO with the team leader of program development.

The text librarian supervises a secretary and two part-time student helpers. She also oversees a half time preview librarian who performs organizational work for book selection and audiovisual selection committees for school libraries. The preview librarian works in the immediate vicinity of the text librarian and although she exercises professional skills and requires a minimum of supervision, Ms. Bresnick has the ultimate authority to make decisions affecting the preview librarian's work.

The union argues that the text librarian serves as "a conduit for the dissemination of information relative to the acquisition of instructional materials", 5/ but does not function in a policy making

5/ Union brief, page 12.

or managerial role. Furthermore, the Union contends that Ms. Bresnick's supervisory duties are effectively limited to a secretary and student help who are not represented in the teachers unit. The text librarian's work relationship with the part-time preview librarian involves the supervision of a work activity rather than of employee performance. The union notes that to date, the text librarian has neither evaluated the present preview librarian nor participated in the hiring of any individuals. Ms. Bresnick, the Union argues, spends the vast majority of her time performing library functions which warrant her inclusion in the teaching unit, just as other certified librarians are included. In addition, the union notes that the text librarian works directly with teachers in the selection of appropriate text material and is compensated within the range of teacher salaries. Such work activity the union avers, clearly is supportive of the educational process and substantiates a community of interest between the teachers and text librarian.

The municipal employer argues that the text librarian is appropriately excluded from the teacher bargaining unit. Ms. Bresnick's position requires neither teaching certification nor experience. The text librarian has no contact with District students and has duties significantly distinctive from those of school librarians, the district argues. The municipal employer notes dissimilarities between the text librarian and teachers and other librarians in terms of qualifications, background, job functions, method of compensation, employment contract, immediate supervision and work location. Furthermore, the municipal employer argues that the text librarian functions in a supervisory capacity with respect to a clerical employee and the preview librarian who is in the teacher bargaining unit. Ms. Bresnick's responsibilities include evaluation of the preview librarian and participation in hiring of other such employees in the future.

Based on the above and foregoing, the commission is satisfied that the text librarian does not enjoy sufficient supervisory responsibility to be excluded from the collective bargaining unit herein on that basis. Furthermore the lack of any requirement that the incumbent possess a teaching certificate does not preclude a finding that the position is appropriately included in the teaching bargaining unit. She works extensively with teaching personnel and works in support of the educational program. It is therefore appropriate to include the position in the bargaining unit.

Title I Coordinator

Joyce Mikol is employed as the Title I coordinator in the research and development section. Title I is a federally funded program for educationally disadvantaged children. The amount of federal funding received by a district depends upon a formula based upon the number of low income children in the district. The program is designed to supplement, not supplant, local educational financing. Title I funds are secured on a two or three year basis. Accordingly funding may be discontinued at such intervals.

The district has distributed such funds on the basis of spending and hiring decisions of principals in individually targeted schools. Schools having the highest percentage of disadvantaged children are targeted as Title I schools. Thereafter a needs assessment committee comprising parents and Title I staff makes recommendations to a committee consisting of the director of research and development and the three area directors having Title I schools. Once the individual schools have been designated, the respective principal is responsible for budgeting and hiring staff pursuant to the Title I grant.

Ms. Mikol serves as a non-voting chairperson to the Title I principal's decision making group and as consultant to the Area Directors group and to the parent advisory councils. The Title I coordinator serves as liason between the decision making groups, and between the District and the department of public instruction relevant to the Title I program. She develops data used for distributing money to target schools including identifying alternatives, projecting costs, preparing statistical information, and outlining the pros and cons of certain alternative programs. Ms. Mikol prepares the itemized budget for submission to the department of public instruction and monitors all expenditures made pursuant thereto. The Title I coordinator prepares reporting documents relative to program guideline materials describing the Title I project.

In addition to Ms. Mikol, Title I is centrally staffed by an evaluator (who is a school psychologist), the preschool program coordinator (a social worker), and a guidance counselor who serves as Title I consultant to the Sherman Middle School cluster. With the present exception of Ms. Mikol, the Title I staff is included in the teacher bargaining unit.

The Title I coordinator shares office facilities with the Evaluator. Ms. Mikol participates in and oversees the needs assessment process conducted and planned by the evaluator. She observes Title I programs and meets with staff concerning present and future needs. The coordinator assists in the planning of inservice programs for Title I teachers and aides and handles arrangements for meeting space and speakers. Title I inservice may involve approximately 30 teachers and 60 to 70 aides each month.

Ms. Mikol's job description estimates the following time breakdown by job duties:

- "5% Coordinating the inservice for Title I teachers and aides.
- "5% Coordinating the supervision of instructional aides.
- "5% Direct the day-to-day activities of clerical staff.
- "20% Coordinating the planning of Title I programs between schools with the Title I principals. Preparing the proposal.
- "20% Coordinating and monitoring budget expenditures as planned by the Area Directors and principals.
- "35% Serving as liaison with Title I at the State level. Preparation of budget reports, comparability reports, evaluation reports, audit reports, for the Title I principals.
- "10% Monitoring of Title I programs to help school staffs conform to Title I guidelines." 6/

The requirements for the position of Title I coordinator include possession of a Master's degree and three years teaching experience. Knowledge of Title I guidelines and proposal procedures and familiarity with budget and accounting procedures are also required. Ms. Mikol is a certified teacher and school psychologist.

Sixty-seven percent of Title I coordinator's salary is federally funded. The remaining 33% of Ms. Mikol's salary is derived from the state bureau for handicapped children. The previous Title I coordinator held an administrator's contract for the position, however, Ms. Mikol holds a teacher contract for 38 weeks and is compensated as a school psychologist according to the teacher salary schedule. Union dues have been deducted from her salary.

The union argues that the Title I coordinator works in support of the educational process, and shares a community of interest with professional staff in the teacher bargaining unit. Ms. Mikol, the union contends, exercises no supervisory authority with respect to other members of the Title I program or personnel in other bargaining units. The Union emphasizes Ms. Mikol's holding of a teacher contract and deduction of union dues as evidence that she does not function as an administrator or supervisor. Furthermore the union argues that the Coordinator is not a managerial employe as the district's Title I program is not centrally budgeted and decision making powers reside with Title I principals.

The District argues that Ms. Mikol's holding of a teacher contract bears no real relationship to the job function of Title I coordinator. In light of the fact that the position is funded by the federal government and thereby subject to abolition by congress, the district avers that Ms. Mikol was placed under a teacher's contract in order to afford her greater employment security should the federal program be discontinued. The municipal employer contends that mere possession of a teaching contract does not render the Title coordinator to be a teacher-like position, and notes that Ms. Mikol has no student contact.

The District argues that the coordinator is a managerial employe appropriately excluded from the bargaining unit. According to the district, Ms. Mikol effectively participates in the formulation and consideration of budget and program alternatives consistent with the concept of "managerial" responsibilities.

It is clear on the evidence presented that the Title I coordinator position is not managerial. Her work with other teachers in support of the educational program justifies her inclusion in the bargaining unit.

Dated at Madison, Wisconsin this 4th day of April, 1977.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

Charles D. Hoornstra
Charles D. Hoornstra, Commissioner

