

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

MILWAUKEE TEACHERS EDUCATION
ASSOCIATION

For Clarification of Bargaining
Unit of Certain Employees of

MILWAUKEE BOARD OF SCHOOL DIRECTORS

Case LX
No. 18480 ME-1124
Decision No. 13787

Appearances:

Perry & First, S.C., Attorneys at Law, by Mr. Richard Perry, Esq.,
Mr. James Colter, Executive Director, and Mr. Donald L. Deeder,
Assistant Executive Director, appearing on behalf of Milwaukee
Teachers Education Association.

Mr. Edward Neudauer, School Administrative Specialist, and Mr. Gordon
Harrison, Chief Negotiator, appearing for Milwaukee Board of
School Directors.

ORDER CLARIFYING BARGAINING UNIT

Milwaukee Teachers Education Association, herein Association, having
filed a petition with the Wisconsin Employment Relations Commission,
herein Commission, wherein it requested that the Commission determine 1/
whether certain Reading Instructional Resource Specialists, Diagnostic
Instructional Specialists, Clinical Teachers, Clinical Educators, and
Speech Pathologists employed by the Milwaukee Board of School Directors,
herein the Board, should be included in or excluded from an existing
collective bargaining unit consisting of:

"... all regular teaching personnel (hereinafter referred to
as teachers) teaching at least fifty percent of a full teaching
schedule or presently on leave including guidance counselors,
school social workers, teacher-librarians, traveling music
teachers and teacher therapists, (including speech therapists,
occupational therapists and physical therapists, community
recreation specialist, activity specialists, music teachers
550N) who are otherwise regularly employed in the bargaining unit,
excluding substitute per diem teachers, officer and clerical
employees, and other employees, supervisors, and executives";

and hearing on said petition having been held on March 20, 1975 at
Milwaukee, Wisconsin before hearing Officer Amedeo Greco; and at
the hearing the parties stipulated that Clinical Educators, Speech
Pathologists, Itinerant Teachers, and Diagnostic Teachers 2/

1/ The petition also sought to have Guidance Specialists included in
the unit. However, the parties agreed at the hearing that this
classification was obsolete and, accordingly, the Association
requested that this classification be deleted from the petition.

2/ The parties agreed that Itinerant Teachers and Diagnostic
Teachers should be included in the unit even though those
classifications were not listed in the petition.

should be included in the above-described collective bargaining unit; and as a result, the only remaining issues therein centered on the inclusion or exclusion of Reading Instructional Resource Specialists and Diagnostic Instructional Specialists; and the Commission having considered the petition and the record and the arguments of the parties,

NOW, THEREFORE, it is

ORDERED

That Reading Instructional Resource Specialists are excluded from the above-described unit, and that Diagnostic Instructional Specialists, Clinical Educators, Speech Pathologists, Itinerant Teachers and Diagnostic Teachers are included in said unit; and that therefore the unit is hereby clarified to read:

". . . all regular teaching personnel (hereinafter referred to as teachers) teaching at least fifty percent of a full teaching schedule or presently on leave (including guidance counselors, school social workers, teacher-librarians, traveling music teachers and teacher therapists, including speech therapists, occupational therapists and physical therapists, community recreation specialist, activity specialists, music teachers 550N) who are otherwise regularly employed in the bargaining unit, diagnostic instructional specialists, clinical educators, speech pathologists, itinerant teachers, and diagnostic teachers, excluding substitute per diem teachers, office and clerical employees, and other employees, supervisors, and executives.

Given under our hands and seal at the
City of Madison, Wisconsin this *7th*
day of July, 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 ORDER
CLARIFYING BARGAINING UNIT

As noted above, the parties stipulated that Clinical Educators, Speech Pathologists, Itinerant Teachers, and Diagnostic Teachers should be included in the unit. Pursuant to that stipulation, the Commission has clarified the unit to reflect the inclusion of these classifications.

Turning to the remaining disputed classifications, the Association maintains that the Reading Instructional Resource Specialists and Diagnostic Instructional Specialists share a substantial community of interest with unit employees and that, as a result, they should be included in the unit. The Board, on the other hand, opposes their inclusion in the unit primarily on the contention that the employees occupying such classifications are supervisors and/or managerial employees.

In agreement with the Board, the Commission finds that the Reading Instructional Resource Specialists are supervisors and therefore excluded from the unit. The seven employees in this classification are primarily responsible for supervising the approximately 150 Reading Resource Teachers employed throughout the school system. Each of the seven Reading Instructional Resource Specialists is responsible for coordinating the reading programs for particular groups of schools to which they are assigned and each visits those schools in the performance of their duties. In that role, ^{3/} the Reading Instructional Resource Specialists assist principals in evaluating the Reading Resource Teachers, and further, if necessary, have the effective power to recommend to principals that Classroom Teachers change their reading techniques. If called upon, the Reading Instructional Resource Specialists would testify at teacher disciplinary hearings and in fact have done so. Moreover, based upon their observations, the Reading Instructional Resource Specialists have the effective authority to recommend the transfer of Reading Resource Teachers from one school to another. Additionally, the Reading Instructional Resource Specialists attend weekly supervisory meetings where personnel policies are discussed and they also call for and arrange in-service training programs for the various School Principals in the various schools for which they are responsible. Also significant is that the Reading Instructional Resource Specialists, unlike the Reading Resource Teachers, have little, if any, direct student contact. Moreover, the Reading Instructional Resource Specialists have been specifically advised by the Board that they are supervisors and that they are expected to perform supervisory functions and, as a result, the Reading Instructional Resource Specialists are paid more than the Reading Resource Teachers. The record also establishes that the Reading Instructional Resource Specialists are expected to have a Masters Degree and that they have more advanced training than the Reading Resource Teachers who are not required to have as much graduate work. Further, the Reading Instructional Resource Specialists are the only direct supervisors of the 150 Reading Resource Teachers, so that the ratio of supervisory to non-supervisory personnel is about one to twenty-one. If, on the other hand, the Reading Resource Specialists were not supervisors, the one Reading Curriculum Specialist, who is directly over the Reading Resource Instructional Specialists, would be entirely responsible

^{3/} Because this is a newly created classification which came into existence in 1974, the testimony concerning these employees in part centered on the duties which these employees would be expected to perform in the future.

for supervising all of the approximately 150 Reading Resource Teachers, thereby creating a ratio of one supervisor for 150 employees. Inasmuch as the Reading Curriculum Specialist does not exercise front line supervisory functions, the latter ratio is highly disproportionate under the facts herein.

Based upon the foregoing factors, the Commission therefore finds that the Reading Instructional Resource Specialists possess sufficient supervisory authority so as to warrant their exclusion from the unit.

With respect to the Diagnostic Instructional Specialists, the record disclosed that this classification came into existence in 1974 and that these employees are primarily responsible for coordinating groups of multi-disciplinary teams at various schools and that the Diagnostic Instructional Specialists visit the schools for which they are responsible. The teams consist of various professional employees such as Social Workers, Speech Pathologist, Reading Teachers, Psychologists, etc. who periodically meet to discuss problems of exceptional students and to then prepare and implement an individualized program to correct the problems of a particular student. Each team is led by a multi-disciplinary coordinator, who in most cases is either a Principal or Assistant Principal. The Diagnostic Instructional Specialists, approximately six in number, have no authority over the team members and, instead, act as general advisors to the team for purposes of program development. As advisors, the Diagnostic Instructional Specialists perform a range of functions including recommending the allocation of resources, scheduling meetings, coordinating tests, following up on particular programs, etc. It appears that the Diagnostic Instructional Specialists attend meetings where the progress of the team is considered. But, it is unclear whether personnel policies are discussed at these meetings. Further, although the Diagnostic Instructional Specialists advise the Coordinator of Diagnostic Services as to the progress of particular team members, the Coordinator conducts separate independent investigations to determine the accuracy of a given recommendation and other team members, many of whom are in the bargaining unit, can make similar recommendations. Additionally, while Diagnostic Instructional Specialists can recommend that team members be removed from the multi-disciplinary team, such recommendations are limited in that the team members cannot be transferred from one school to another. It is also significant that the Diagnostic Instructional Specialists have not been clearly advised by the Board that they were given supervisory duties. Moreover, almost all of the non-supervisory members of the multi-disciplinary team are supervised by supervisors within their particular discipline. While the Diagnostic Instructional Specialists are expected to have masters degrees, this same requirement exists for some of the other team members who are in the bargaining unit. The Diagnostic Instructional Specialists do not recommend the hiring, firing, promotion, or discipline of the team members, or any other employee in the unit. In this connection the record does not establish that the Diagnostic Instructional Specialists are expected to testify at disciplinary meetings.

Based upon the above, the Commission concludes that the Diagnostic Instructional Specialists are neither supervisory nor managerial employees. Accordingly, and based upon their community of interest with other unit members, the Commission concludes that they are included in the existing collective bargaining unit.

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Thomas Slavney
Morris Slavney, Chairman

Howard S. Bellman
Howard S. Bellman, Commissioner

Herman Torosian
Herman Torosian, Commissioner