

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Involving Certain Employees of
UNION GROVE GRADE SCHOOL, JOINT
SCHOOL DISTRICT #1

Case I
No. 19295 ME-1212
Decision No. 13820-A

Mr. Wayne Schwartzman, Staff Counsel, Wisconsin Education Association,
appearing on behalf of the Petitioner.
Mr. Eugene W. Lenartz, Attorney at Law, appearing on behalf of
the Municipal Employer.

Union Grove Area Education Association having filed a petition with the Wisconsin Employment Relations Commission on January 23, 1976 requesting that the Commission issue an Order clarifying a certified collective bargaining unit with respect to the appropriate inclusion or exclusion of certain positions in the unit consisting of "all regular full-time and regular part-time clerical, custodial and food service employees working at least twenty (20) hours per week during the school year employed by Joint School District #1, Union Grove, et al.; but excluding professional, managerial, supervisory and confidential employees, employees working less than twenty (20) hours per week during the school year and all other employees"; and a hearing in the matter having been held on April 28, 1976, in Racine, Wisconsin, before Howard S. Bellman, Commissioner; and the Commission having considered the evidence and arguments of the parties and being fully advised in the premises, makes and issues the following

That the aforementioned collective bargaining unit should be, and the same hereby is, clarified to include the positions of Head Cook and Head Custodian.

Given under our hands and seal at the
City of Madison, Wisconsin this 29th
day of December, 1976.

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

On June 25, 1975, the Petitioner filed a petition for an election in a bargaining unit consisting of certain clerical, custodial and food service employees employed by the Municipal Employer. The parties subsequently executed a Stipulation for Election which included an agreement that the positions of Head Cook and Head Custodian were supervisory and thus would be excluded from the bargaining unit in which the election was to be conducted. Pursuant to the terms of the Stipulation, an election was held and the Petitioner was subsequently certified as the collective bargaining representative. On January 23, 1976, the Commission received the instant petition requesting that the bargaining unit be clarified with respect to the positions of Head Cook and Head Custodian. The Petitioner asserts that the positions are not supervisory, while the Municipal Employer disputes this assertion and contends that the positions should continue to be excluded from the unit.

HEAD COOK

The record reveals that the incumbent in the position of Head Cook spends a substantial portion of her time working with the two regular and two part-time cooks preparing and serving school lunches and subsequently cleaning the serving trays. The remainder of her duties primarily involve the ordering of supplies, creation of recipes and planning of menus which are then executed by the other cooks, with little direction from the Head Cook. When the incumbent is absent she is replaced by an individual who is also available as a substitute for the other cooks. The incumbent has never evaluated or disciplined another employee and has never been told that she has authority to do so. While the record indicates that the Head Cook has had some involvement in the hiring of employees, and has the authority to call the other food service employees in early, her lack of disciplinary and evaluative authority and the considerable amount of time which she spends performing duties shared by other bargaining unit employees lead the Commission to conclude that the position of Head Cook is not supervisory, and thus that said position should be included in the bargaining unit.

HEAD CUSTODIAN

The incumbent in the position of Head Custodian spends the vast majority of his time performing various maintenance functions which are shared by four other custodians. He routinely assigns tasks to other employees and seldom oversees their work. While the incumbent is consulted by the District Administrator when custodial employees are hired, he does not evaluate an employee's performance and his alleged authority to effectively recommend disciplinary action has never been exercised. Based upon the position's limited supervisory attributes and the substantial amount of time which the incumbent spends performing bargaining unit work, the Commission concludes that the Head Custodian functions as a working foreman and thus that the position is not supervisory.

Dated at Madison, Wisconsin this 29th day of December, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Thomas Slavney, Chairman

Herman Torosian, Commissioner

Charles D. Hoornstra, Commissioner