

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Case XX
No. 20319 ME-1309
Decision No. 14653

Mr. Eugene Balts, Superintendent, LaCrosse Area Joint School District No. 5, appearing on behalf of the Municipal Employer.
Mr. Thomas C. Bina, Executive Director, Coulee Region United Educators, appearing on behalf of the Petitioner.

LaCrosse County School Employees Association - LaCrosse Food Services, hereinafter referred to as the Petitioner, having on March 25, 1976, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to conduct an election, pursuant to Section 111.70(4)(d) of the Municipal Employment Relations Act, among certain employees of LaCrosse Area Joint School District No. 5, to determine whether said employees desire to be represented by said Petitioner for the purposes of collective bargaining; and a hearing on such petition having been held at LaCrosse, Wisconsin on April 20, 1976, Sherwood Malamud, Hearing Officer, being present; 1/ and the Commission having considered the evidence and being fully advised in the premises, and being satisfied that a question has arisen concerning representation of certain employees of said Municipal Employer;

DIRECTED

1/ The parties waived, in writing, the preparation of a transcript of the proceeding and the provisions of Section 227.12 of the Wisconsin Statutes.

sented by LaCrosse County School Employees Association - LaCrosse Food Services for the purposes of collective bargaining with LaCrosse Area Joint School District No. 5.

Given under our hands and seal at the City of Madison, Wisconsin this 21st day of May, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Petitioner requested in its petition that the Commission direct an election in a unit described as:

"All food service employees who are employed on a full or regular part-time basis, excluding supervisory personnel."

The Employer agreed to the description of the unit. The Commission is satisfied that the above-described unit constitutes an appropriate unit, and it has directed an election in said unit. ^{2/} However, the parties could not agree to the supervisory status of two classifications, namely, the Cook Supervisors and the Head Cooks.

The Employer provides school lunches in all 19 of its schools. In nine of the schools, the food is prepared in the buildings, and in three of these nine schools, food is also prepared for distribution to "satellite" schools as well. There are four employee classifications employed in the preparation and service of school lunches, and they are the Cook Supervisors, the Head Cooks, the Assistant Cooks and the Servers. Of the 48 employees employed in Food Service, three are Cook Supervisors and six are Head Cooks. A Cook Supervisor is stationed in school buildings where lunches are prepared for the individual school and other (satellite) schools, as well. Head Cooks are stationed in the six schools where lunches are prepared for students located in each of the six school buildings. A Cook Supervisor and a Head Cook are stationed in Central High School. The Head Cook is in charge of food preparation for the a la carte menu which is available only at the High School. Assistant Cooks are employed at the eight schools where food is prepared and Servers are employed at the ten "satellite" schools.

Six Assistant Cooks are assigned to the Central High School kitchen facility along with the Cook Supervisor and the a la carte menu Head Cook. Four Assistant Cooks work with the Cook Supervisor at the Erickson School, and four Assistant Cooks and one Server work with the Cook Supervisor at Logan Junior High School. The Head Cook at Lincoln Junior High School works with four Assistant Cooks, and the Head Cook at Summit and Jefferson each work with two Assistant Cooks. The Head Cook at Emerson and Franklin each work with one Assistant Cook. The Servers, who are located at the remaining "satellite" schools direct problems concerning the quality or quantity of food to the Cook Supervisor of the supplying school. However, all other matters such as scheduling of work and leaves of absences or any other personnel problems of the Servers are handled directly by the Building Principal of the school to which the Server is assigned.

Gary Olsen spends approximately 50 percent of his time as Director of the Food Service Program and 50 percent of his time as Director of Purchasing. He administers the Employer's school lunch program. However, as Director of Food Service, Olsen spends little or no time performing the day-to-day supervisory duties necessary to the program. His office is located at the offices of Central Administration. In preparation for the election hearing, Mr. Olsen prepared job descriptions of the Cook Supervisor and Head Cook positions. The following represents a synopsis of those job descriptions for Cook Supervisor and Head Cook. Both the Cook Supervisor and the Head Cook perform the following duties:

^{2/} The Commission has reformulated the description for purposes of clarity.

1. Submit requisitions to the Director at least two weeks in advance for food and supplies;
2. Complete daily Food Consumption Reports, Monthly Government Commodity Reports, labor reports (hours worked), plan daily work schedules;
3. Approve invoices for payment, maintain quality control by insuring all food received is of the federal grade specified on the bids, report any discrepancies to the Director of Food Services;
4. Provide menu planning input-work with Director of Food Services and other head cooks to formulate yearly cycle menu;
5. Contact substitute cooks when staff members are not present;
6. Assist in hiring new employees, provide on-the-job training for all new employees, report any difficulties encountered in working with staff members;
7. Interpret and implement Board of Education goals for Food Service Program;
8. Both the Cook Supervisors and Head Cooks set starting and quitting times for Assistant Cooks.

The Cook Supervisors differ from Head Cooks in that they are responsible for scheduling employees, ordering food, completing appropriate governmental reports and preparing lunches for students in satellite schools, as well as students in the building in which the particular kitchen facility is located. A Cook Supervisor in the High School is responsible for the preparation of approximately 900 lunches daily.

The Employer has established the following pay schedule for the four employee classifications employed in the Food Service Program:

Cook Supervisor	\$3.15/hour
Head Cook	2.90/hour
Assistant Cook	2.30/hour
Server	2.20/hour

The duties of the Cook Supervisors and Head Cooks relative to functions such as the ability to effectively recommend hiring, firing, disciplining, evaluating, directing and assigning Assistant Cooks and Servers were clearly developed at the hearing. To date, no food service employee has been formally disciplined or discharged. If, in the opinion of the Head Cook or Cook Supervisor, an employee were to require discipline, the Head Cook or Cook Supervisor would so advise the Building Principal who would determine what, if any, discipline was appropriate.

Although the Head Cooks and Cook Supervisors are consulted in the hiring process and participate in the employment interview, the effective recommendation to hire is made by the Building Principals.

The Cook Supervisors and Head Cooks schedule Assistant Cooks assigned to the particular building where the Cook Supervisor or Head Cook is located. They establish an Assistant Cook's starting and quitting time. Requests for leave are made to the Cook Supervisors or Head Cooks. They call in substitutes from a list which they maintain if an employee calls in sick. Servers, who are employed at satellite schools, request leave, call in sick, are hired directly and are disciplined by their particular Building Principal.

If, in the opinion of a Cook Supervisor or Head Cook, the work load justifies increasing the hours of a particular employe, that recommendation is made to the Building Principal, who may forward the request to the Director of Food Service. The Director determines whether such request should be granted or denied.

POSITIONS OF THE PARTIES:

Petitioner, contrary to the Employer, asserts that the Cook Supervisors and Head Cooks are not supervisors within the meaning of the Act. The Employer asserts that its lines of supervisory authority are not formalized. However, it pays the Cook Supervisors and Head Cooks significantly more than the Assistant Cooks and Servers because of the supervisory and managerial duties they are required to perform. The Employer maintains that it must have someone with supervisory authority in the school kitchens and cafeterias.

DISCUSSION:

The evidence demonstrates that the Building Principal is the individual who possesses the authority to discipline, to make effective recommendations concerning hiring to the Board, and to modify the hours of an employe. While the Cook Supervisors and Head Cooks participate in such activity, however, the Building Principal has the primary authority to effectively make such recommendations to central administration and the Board of Education is the Building Principal.

Furthermore, although the Cook Supervisors and Head Cooks are responsible for anticipating the number of students who will participate in the school lunch program and monitoring the level of consumption and inventory of food and supplies, the purchasing of foods is performed centrally by the Director of Food Services.

The Cook Supervisors and the Head Cooks are paid higher hourly rates than the Assistant Cooks and Servers. Such higher pay scale is in recognition of their non-cooking duties which comprise no more than 25 percent of their time.

However, the Commission is satisfied that it is the Building Principal who is the immediate supervisor of food service personnel. It is the Building Principal who effectively recommends the hiring of new food service employes, and he is the one who has the authority to effectively discipline personnel. Furthermore, the Cook Supervisors and Head Cooks spend a substantial (75 percent) portion of their time engaged in the preparation of meals, as do the other unit employes. On that basis, the Commission concludes they are lead persons since they are not cloaked with the sufficient supervisory or managerial authority contemplated by MERA to warrant a finding that they are not employes within the meaning of Section 111.70(1)(b). 3/ Although the Employer has indicated that it may alter the formal lines of authority within Food Service, the Commission has based its decision on the facts as they presently exist rather than on the basis of potential supervisory duties which may be assigned to the Cook Supervisors and Head Cooks. 4/

3/ Fond du Lac County (10579-A) 1/72.

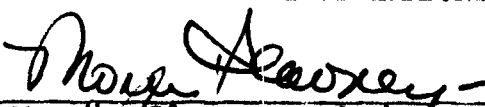
4/ See Oneida County (9134-A, 12247) 11/73 where the Commission refused to exclude a Probate Registrar on the basis of the potential assignment of supervisory responsibilities to that position.


Based on the above, the Commission has determined that the Cook Supervisors and Head Cooks are neither supervisory nor managerial employees as those terms are defined by MERA, and therefore, they are eligible to vote in the election.

Dated at Madison, Wisconsin this 21st day of May, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner