

MEMORANDUM ACCOMPANYING ORDER DISMISSING PETITION
FOR UNIT CLARIFICATION

Mt. Horeb Education Association, hereinafter Petitioner, is the voluntarily recognized collective bargaining representative of the unit described in the foregoing Order. Voluntary recognition occurred in at least 1970 and the parties have entered into numerous collective bargaining agreements. Petitioner, maintaining that the Commission has jurisdiction to clarify a voluntarily recognized unit, requests that the regular part-time employees who are engaged in teaching, of whom there are five, be included in the teaching unit. 3/

The Employer moved to dismiss the petition on the basis that the Commission should not expand a voluntarily recognized unit. It also sets forth that three of the five part-time teachers are hired with federal funds on a year-to-year basis and that the School District is never sure until just prior to the school year the amount of such funds which will be available for the employment of part-time teachers.

The Commission will not expand a voluntarily recognized unit where the petitioned-for positions were previously mutually excluded from the unit, 4/ and where the positions do not constitute all remaining unrepresented employees. 5/ In the case before the Commission, part-time teachers are not expressly excluded from the unit. According to the terms of the recognition clause, however, they are implicitly excluded. The clause reads that the parties have agreed to a collective bargaining unit of "all full-time employees . . . engaged in teaching . . . but excluding . . . all other employees." The agreement clearly limits inclusions in the unit to full-time employees.

The Petitioner stated that it had always assumed that the part-time teachers were included in the recognized unit, and that it was not until several years ago that it learned that the Employer considered them excluded. The Commission will not permit the Petitioner's assumption concerning the composition of the unit to outweigh the clear meaning of the recognition clause. Since at least one of the five part-time positions was in existence when the Petitioner was recognized and the unit agreed to, the parties could have included part-time teachers in the unit.

Accordingly, the Commission concludes that it will not include the part-time teachers in the existing unit. This does not prohibit

3/ There is a sixth part-time teacher, James Huehl, who is not included in the petition. The Commission makes no decision concerning Huehl as both parties agreed that his position and his certification were temporary and that he was excluded from the unit.

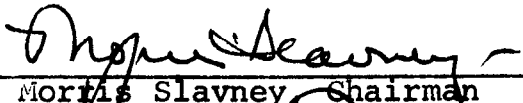
4/ City of Cudahy (12997) 9/74 .

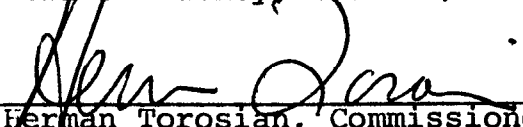
5/ Fox Valley Technical Institute (13204) 12/74 .

the parties from voluntarily agreeing to the inclusion of the part-time teaching personnel 6/, or the Petitioner from petitioning for an election in the entire unit it claims to be appropriate.

Dated at Madison, Wisconsin this 8th day of June, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Herman Torosian, Commissioner

6/ From the evidence received at the hearing in this matter, the Commission would conclude that the regular part-time positions could appropriately be included in a unit with full-time teachers. The fact that three positions are federally funded does not prohibit the incumbents' inclusion in the unit.