

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of :

MENOMONIE BOARD OF EDUCATION EMPLOYEES :
LOCAL 727-B, WCCME, AFSCME, AFL-CIO :

Case XV
No. 20350 ME-1315
Decision No. 14738

Involving Certain Employes of :

MENOMONIE JOINT SCHOOL DISTRICT NO. 1 :

Appearances:

Mr. Guido Cecchini, Business Representative, WCCME, AFSCME, AFL-CIO,
appearing on behalf of the Petitioner.
Solberg, Steans and Joyce, Attorneys at Law, by Mr. Jack Joyce,
appearing on behalf of the School District.

DIRECTION OF ELECTIONS

Menomonie Board of Education Employees Local 727-B, WCCME, AFSCME, AFL-CIO, hereinafter referred to as the Petitioner, having, on March 30, 1976, filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election, pursuant to Section 111.70(4)(d) of the Municipal Employment Relations Act, among certain employes of Menomonie Joint School District No. 1, to determine whether said employes desire to be represented by said Petitioner for the purposes of collective bargaining; and a hearing 1/ on such petition having been held at Menomonie, Wisconsin, on May 21, 1976, Stephen Schoenfeld, Hearing Officer, being present; and the Commission, having considered the evidence and being fully advised in the premises, and being satisfied that questions have arisen concerning appropriate bargaining units and representation for certain employes of said Municipal Employer;

NOW, THEREFORE, it is

DIRECTED

That elections by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within 30 days from October 1, 1976 in the following voting groups:

VOTING GROUP NO. 1

All clerical employes of Menomonie Joint School District No. 1 and conditionally excluding Teachers' Aides, and fully excluding supervisory and confidential employes, who are employed by Menomonie Joint School District No. 1 on October 1, 1976, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes voting desire to be represented by Menomonie Board of Education Employees Local 727-B, WCCME, AFSCME, AFL-CIO, for the purposes of

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.

collective bargaining with the above-named Municipal Employer on questions of wages, hours and conditions of employment.

VOTING GROUP NO. 2

All Teacher's Aides employed by Menomonie Joint School District No. 1 who are employed on October 1, 1976, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining:

1. Whether a majority of such eligible employees desire to be included in one single bargaining unit consisting of the employees set forth in voting Group No. 1 above, and
2. Whether a majority of such employees voting desire to be represented by Menomonie Board of Education Employees Local 727-B, WCCME, AFSCME, AFL-CIO, for the purposes of collective bargaining with Menomonie Joint School District No. 1.

Given under our hands and seal at the
City of Madison, Wisconsin this *28th*
day of June, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney
Morris Slavney, Chairman

Herman Torosian
Herman Torosian, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

Pursuant to Section 111.70(4)(d) of the Municipal Employment Relations Act, Menomonie Board of Education Employees Local 727-B, WCCME, AFSCME, AFL-CIO petitioned the Wisconsin Employment Relations Commission to conduct a representation election in an alleged appropriate unit consisting of "all clerical employees, including Teacher's Aides, but excluding confidential, supervisory and all other employees of the employer." During the course of the hearing the parties stipulated and agreed that Ms. Murile Tylee, a bookkeeper, should be excluded from the unit on the basis that she is a confidential employee and because she also supervises all clerical employees in the employ of the District. Furthermore, the parties agreed that Ms. Wanda Culp, a secretary, and Ms. Ruth Owen, a secretary, should be excluded from the unit on the basis of their confidential duties.

The District maintains, contrary to the Petitioner, that because the teacher's aides do not have a sufficient community of interest with the clerical employees, it is inappropriate to include them in the unit with clerical employees and, consequently, said unit should consist exclusively of clerical employees. Teacher's aides ^{2/} work with children in an instructional capacity and that their time is spent either rendering instructional assistance ^{3/} in the classroom under the direct control of a teacher, or performing administrative responsibilities. Seventy-five percent of their time is spent in direct contact with students, and during the remainder of their time they are concerned with classroom preparation, parent-teacher conferences and evaluation of students. The teacher's aides do not perform secretarial or clerical tasks except for their own purposes, which is minimal and both the teachers and teacher's aides have clerical personnel available to them for their utilization.

A majority of the teacher's aides have either a teaching certificate or have had previous teaching experience or training. However, graduation from high school, including or supplemented by some college attendance, constitutes the only "formal" training required for the job.

The aides are paid at an hourly rate, which exceeds that of the clerical employees by approximately fifty cents to one dollar per hour. The District indicated that the aides are paid more than the clericals because their training is more extensive and because of their teaching responsibilities.

Non-Title I teacher's aides enjoy the same fringe benefits as the clerical employees; however, those aides employed under the Title I program do not receive such benefits. The clerical employees are supervised by Ms. Muriel Tylee, while the teacher's aides are supervised primarily by the building principal or the Director of Title I.

^{2/} There are presently eight teacher's aides employed by the District, five of whom are employed under the Title I program.

^{3/} Mr. LeRoy McGary, Director of Instruction, indicated that the aides provide instructional assistance by teaching and developing language and reading skills on a one-to-one or small group basis. The aides, according to McGary, work as a "team" with the teachers.

We are satisfied that the aforesaid does not provide the aides a sufficient community of interest with the clerical employees to warrant their inclusion in the clerical unit, unless the aides desire to be so included. 4/ Consequently, the teacher's aides shall be given an opportunity to determine by secret ballot whether they desire to be included in a single bargaining unit with the otherwise eligible clerical employees, and whether they desire to be represented by the Petitioner. A separate ballot box shall be utilized for the ballots cast by the aides. The sequence of counting the ballots will be as follows:

1. The ballots cast by the teacher's aides as to their desire to be included in the clerical employe unit will be tallied first.
2. If a majority of the eligible teacher's aides do not vote in favor of the inclusion in the clerical unit, the representation ballots cast by the teacher's aides will be opened and counted separately from the ballots cast by the clerical employees to determine whether a majority of the teacher's aides desire to be represented by Menomonie Board of Education Local 727-B, WCCME, AFSCME, AFL-CIO.
3. If the teacher's aides vote in favor of being included in the clerical unit, the Commission's agent shall comingle their ballots with the ballots cast by the clerical employees in such a manner to preserve the secrecy of the ballots, and thereupon tally the combined ballots.

In the event that the teacher's aides vote for inclusion in the clerical unit, the appropriate bargaining unit shall consist of all clerical employees, including teacher's aides, in the employ of Menomonie Joint School District No. 1, but excluding confidential, supervisory and all other employees. Should the teacher's aides reject inclusions in the clerical unit, the appropriate units shall consist of (1) all clerical employees, in the employ of Menomonie Joint School District No. 1, but excluding confidential, supervisory and all other employees; and (2) all teacher's aides employed by Menomonie Joint School District No. 1, excluding confidential, supervisory and all other employees.

Since the Title I program does not commence until October 1, 1976 and since the District will not begin the hiring of aides funded under Title I for the 1976-77 school year until sometime during September, 1976, the Commission has selected October 1, 1976 as the eligibility date for determining which aides can participate in the election. Consequently, the election will be conducted within 30 days of this eligibility date.

The same eligibility date has been adopted for the clerical employees.

Dated at Madison, Wisconsin this 23rd day of June, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman

Herman Torosian, Commissioner

4/ Section 111.70(4)(d)2, a, permits such a determination, so as to avoid fragmentation of bargaining units.