

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :
MADISON TEACHERS INC. : Case 53
Involving Certain Employes of : No. 48536 ME-622
MADISON METROPOLITAN SCHOOL DISTRICT : Decision No. 14814-I
- - - - -

Appearances:

Kelly and Haus, Attorneys at Law, by Mr. Robert C. Kelly, 148 East Wilson Street, Madison, Wisconsin 53703, appearing on behalf of Madison Teachers, Inc.
Ms. Beverly M. Massing, Assistant Labor Contract Manager, 545 West Dayton Street, Madison, Wisconsin 53703, appearing on behalf of the Madison Metropolitan School District.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
ORDER CLARIFYING BARGAINING UNIT

On December 1, 1993, Madison Teachers Inc. filed a petition with the Wisconsin Employment Relations Commission to clarify a bargaining unit of municipal employes of the Madison Metropolitan School District by including the position of Volunteer Coordinator for the Cherokee Heights Adolescent/Adult Mentor Program (CHAMP) in the supportive educational employes bargaining unit rather than the educational assistants bargaining unit, both of which are represented by Madison Teachers Inc. Hearing was held on March 25, 1994, in Madison, Wisconsin, before Examiner Lionel L. Crowley, a member of the Commission's staff. The hearing was transcribed and the parties filed briefs and reply briefs, the last of which were received on May 18, 1994. The Commission having reviewed the evidence and the arguments of the parties, and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. Madison Teachers Inc., hereinafter referred to as MTI, is a labor organization with offices located at 821 Williamson Street, Madison, Wisconsin 53703.

2. Madison Metropolitan School District, hereinafter referred to as the District, is a municipal employer with its offices located at 545 West Dayton Street, Madison, Wisconsin 53703.

3. MTI is the exclusive collective bargaining representative for District employees in a bargaining unit, hereinafter referred to as the EA unit, described in the parties' most recent collective bargaining agreement as follows:

All regular full-time and regular part-time educational assistants employed by the Madison Board of Education, Joint School District No. 8, (Madison Metropolitan School District) directly or indirectly assisting professional staff in the instructional program including teacher educational assistants, resource center educational assistants, library educational assistants, handicapped children's educational assistants, nurse's assistants, bilingual educational assistants, clerical educational assistants, science materials educational assistants and counselor educational assistants, but excluding lunchroom and playground supervisors, and all other employees.

4. MTI is also the exclusive collective bargaining representative for District employees in a bargaining unit, hereinafter referred to as the SEE unit, described in the parties' most recent collective bargaining agreement as follows:

All full-time and regular part-time employees engaged in secretarial, clerical, technical and related office duties, but excluding craft, professional, confidential, supervisory and managerial employees and all other employees.

This unit includes the positions of Family/Community Liaison, Minority Recruiting/Human Resources Specialist, Program Assistant (At Risk), Bilingual Resource Specialist and Transportation Planner.

5. On December 1, 1993, MTI filed the instant petition to clarify bargaining unit seeking to move the position of Volunteer Coordinator (CHAMP) from the EA unit to the SEE unit on the grounds the position is of a community outreach nature, generally services an entire school and thus has a close community of interest with the SEE unit positions. The District opposed the petition asserting the District has other EA's in schools who recruit and work with volunteers.

6. Lois Klingele was employed by the District as an Educational Assistant in November, 1991. She worked at the Cherokee Middle School in the after school tutoring program for twelve hours per week. In August, 1992, Cherokee Principal, Mary Ramberg, offered Klingele the position to create and coordinate a mentor program at Cherokee and for 1992-93 her hours were increased to twenty hours per week. As the Volunteer Coordinator of the Cherokee Heights Adolescent/Adult Mentor Program (CHAMP), Klingele developed the following job description:

PRIMARY DUTIES AND RESPONSIBILITIES:

- Responsibility for recruiting volunteers, screening volunteers, making matches, and maintaining volunteers.
- Responsibility for explaining CHAMP to students who would benefit from an adult role model.

-Responsibility for the student mentee's family to be made aware of the program and our screening process of volunteers that work outside of the school building.

-Serve as communication link between school/community volunteers.

-Recruitment of volunteers.

-Respond to inquiries from individuals, church and community groups.

-Respond to inquiries from other schools and provide information on our mentor program.

-Provide opportunities for volunteers such as our mentors to participate in a wide range of functions and activities in the school.

-Help build an understanding between a student and their individual adult mentor.

-Inform mentor of concerns about their mentee as well as his/her accomplishments.

-Work with students in the school settings with teachers and their mentor/tutor.

-Act on needs and recommendations for a particular student after consultation with appropriate staff.

-Develop paperwork necessary to make certain that the volunteers who would be working with young people were the kind of people in whom we could have confidence.

-Attend lectures on mentoring.

-Follow-up work on "screening process" (e.g. Wisconsin Dept. of Justice--Crime Information Bureau; character reference calls, automobile insurance coverage).

-Enhance communication between staff, volunteers, and students.

-Learn about volunteers and students so appropriate matches can be made.

-Organize workshops & other functions for volunteers.

-Coordinate events for the students with their mentors; for example, a group of Cherokee girls met weekly with their mentors in the evening at our school. Also coordinated their participation in a "day away" for these girls with their Oscar Mayer mentors at the Madison facility.

-Resource person for mentors and other volunteers.

-Respond to staff inquiries as they look for a mentor or tutor for a particular student.

- Coordinate meetings with staff to discuss mentor program (e.g. provide an agenda, follow through on decisions, etc.).
- Arrange an introductory meeting in our school between student & volunteer mentor.
- Introduce the student & mentor.
- Coordinate meetings between mentors and students who do not have a home phone.
- Coordinate payment of the "checks" at the Wisconsin Dept. of Justice.

KNOWLEDGE & EXPERIENCE

- Minimum level of formal education
 - high school diploma or GED.
 - ability to communicate effectively.
 - ability to create, organize, execute.

Skills & Abilities:

- Ability to work as a member of a team.
- Ability to work independently with very little direction.
- Ability to communicate effectively in both written and oral form.
- Capability of working flexible hours in order to be available to the school and volunteers.
- Commitment to improving the academic achievement of students of color and all students.
- Ability to facilitate communication between staff, students, their families and communities.
- Ability to respond to mentors' concerns and questions.

On the Job Training:

- Participate in staff development opportunities.
- Learn about community resources and appropriate contacts.
- Learn about MMSD policies on employment of personnel which were used as a guide in setting our policies for volunteers working outside of our school building.
- Learn about school policies and school expectations for personnel.
- Learn to deal with children of other cultures.
- Learn about the function of various groups and individuals in the school.
- Articulate role as volunteer coordinator to staff, students, volunteers.

PHYSICAL SKILLS

Manual Skills:

- Typing
 - Photocopiers
 - Telephone
 - Computer (word processing)
- Machines, tools, equipment used on a regular basis:
- Computer
 - Photocopiers
 - Telephone

MENTAL EFFORT/JUDGMENT

Kind of Effort/Judgment:

- Principal's instructions.

How and from whom instruction is received:

- Verbal.
- Principal
- Social Worker, Learning Coordinators.

Most important or difficult decision:

- Deciding when a mentor relationship needs to be terminated.
- Deciding who to share sensitive information with.

RESPONSIBILITY

Project/assignment/goal:

- Organizing mentor program.
- Organizing workshops & celebrations for volunteers.

Interpersonal Skills:

Internal - Purpose and frequency of contacts:

- Principal -Nurse
- Teachers -Learning Coordinators
- Social Worker -Counselors

Purpose for each - exchange of ideas and feedback

External - Purpose and frequency of contacts:

- Students (explaining mentor program and their responsibilities)
- Staff (helping find a mentor for students)
- Principal (direction and feedback)
- Volunteers (explaining mentor program, listening to their concerns, expressing concerns from staff)
- Churches (recruiting volunteers and explaining our program)
- Business (recruiting volunteers and explaining our program)

Responsibility for Assets:

Financial Assets -N/A

District Property:

- Telephone

Confidential Information:

Student records - sharing pertinent information with mentors regarding student progress if the parents have given permission.

Supervision:

No supervision of other staff.

Safety of Others:

Responsibility for protecting fellow employees, students and others regarding safety hazards, etc. - N/A

Working Conditions:

Job does not require working in disagreeable or uncomfortable surroundings.

Eye strain - N/A

Dangerous conditions - N/A

- Hard to predict what will need immediate attention.
- Frequent interruptions.

OTHER COMMENTS

This Position requires:

- mobility and flexibility
- ability to keep an open mind
- ability to be responsive to concerns of volunteers, students, and staff
- ability to be independent
- ability to be responsible
- ability to be motivated
- ability to work flexible hours
- ability to respect the differences and similarities between and among people
- ability to learn new skills.

7. Klingele developed forms whereby students self refer to the mentor program and parents must give permission and a release to the District. Klingele seeks adult volunteers to be mentors to the students, checks their background and character references and matches students with the adult mentors.

8. In December, 1992, MTI filed a petition for unit clarification with the Commission seeking to move the position of Family/Community Liaison from the EA unit to the SEE unit. MTI and the District subsequently agreed to submit the following job description for the Family/Community Liaison position as well as existing EA and SEE unit job descriptions to the firm of William M. Mercer, Inc. to determine the appropriate unit placement of the Family/Community Liaison position.

The Role of the Family/Community Liaison is to...

- ...enhance communication between home and school and assist parents in understanding school policies and procedures.
- ...advocate for families in the school-community.
- ...interpret school issues to families and communities.
- ...be knowledgeable about community resources and issues.
- ...enable parents to assume responsibility for supporting their children
- ...arrange and provide educational support.
- ...assist in building a healthy school environment and climate.
- ...advocate for and implement programs for students, staff and families
- ...serve as role models for students and staff.
- ...build trust with families and communities regarding school.
- ...work as a team member with school staff and participate as a member of
- ...develop a process for and support implementation of parent education programs.
- ...be available to help students and their families access the school
- ...empower school staff through facilitating cultural understanding.

Knowledge, Skills and Abilities...

- ...High school diploma or GED.

- ...Ability to communicate effectively in both oral and written form.
- ...Ability to work as member of a team as well as independently under the supervision of the principal or his/her designee.
- ...Capability for working flexible hours.
- ...Ability to work effectively in crisis situations and diffuse conflict.
- ...Commitment to improving the academic achievement of students of color.
- ...Ability to facilitate communication between diverse staff, student, and parents.

Training and Experience...

- ...Successful and extensive experience living in and working with culturally diverse communities.
- ...Knowledge of community agencies and their functioning.
- ...Valid Wisconsin driver's license (with access to a car), mileage reimbursed.
- ...Experience in working with school aged students from diverse groups.

On June 2, 1993, Mercer by letter stated, in part, as follows:

After careful consideration of all available information, it is our opinion that the Family/Community Liaison position more appropriately belongs with the Supportive Educational Employees jobs. There are jobs which are similar to the subject position in both responsibilities and qualifications in either compensation structure. However, those in the SEE structure (e.g., Minority Recruiting/Human Resource Specialist, Program Assistant (At Risk), Bilingual Resource Specialist and Transportation Planner) have responsibilities which are more of a community outreach nature and service a school or school district in general as opposed to a specific classroom, teacher, or function at a school.

Also, it is interesting to note the DOT codes which are identified to correspond to the EA jobs. The vast majority of the DOT titles are "Teacher Aide" jobs, while the corresponding DOT title for the Family/Community Liaison position is "Attendance Officer".(sic) In addition, the system used to evaluate SEE jobs is entirely appropriate to evaluate subject position especially in terms of interpersonal relations and working conditions. While placement in either structure is supportable, the Family/Community Liaison position appears to fit better with the SEE jobs.

The parties then moved the Family/Community Liaison position from the EA to the SEE bargaining unit.

9. In addition to the Volunteer Coordinator, Cherokee Heights Middle School employs individuals in the EA unit who function as Attendance Coordinator and Study Coordinator/Transition Coordinator who have the following responsibilities.

ATTENDANCE COORDINATOR

1. The Attendance Coordinator will keep records regarding absences and tardiness for students who appear to have a problem attending all their classes.
2. The Attendance Coordinator will be responsible for systematically notifying students' families of attendance issues.
3. The Attendance Coordinator will serve as en loco parentis for students with attendance issues.

Specifically, the Attendance Coordinator will...

- monitor student absences
- monitor student tardies
- send postcards or letters to families notifying them of student's absence/tardiness
- call parents when students arrive after 8:45 a.m.
- keep records by student of interventions attempted
- meet with individual students who develop a pattern of absences and or tardiness and attempt to find out why they miss school
- consult with support staff regarding appropriate interventions for students with pattern absences/tardies
- Notify teachers to begin collecting work for individual students. (Note: Principal will inform all teachers that when a student is absent, work should be placed in a folder for that student.)
- Meet with the student when s/he returns to school and develop a plan to begin making up missed work.
- Monitor chronic absentee/tardy students' attendance and work production at Homework Lab.

STUDY COORDINATOR/TRANSITION COORDINATOR

- Work with PTO and Volunteer Coordinator to secure volunteers for Homework Lab.
- Supervise Homework Lab Mondays and Wednesdays from 2:45 - 3:45.
- Publicize Homework Lab.
- Document student attendance at Homework Lab.
- Meet with students new to Cherokee when they come to enroll to provide them with the information about Cherokee -- rules,

expectations, conflict resolution/peer mediation, etc. -- and to arrange a "buddy" for them
 --Follow-up new students and Homework Lab attenders regarding performance in classroom.
 Communicate relevant information to support staff, et al.

10. The following is a general comparison of the benefits and working conditions of EA and SEE units:

<u>Issue</u>	<u>Ed. Assistants (EA'S)</u>	<u>Clerical (SEE)</u>
Salary	Hourly	Biweekly
Hours	9-month, As Assigned	10-month, 38 3/4 hours/week
Longevity	% by school year	% by months of service
Retirement	yes	yes
Probationary Period	1 year	6 months
Surplus	yes - Notice of Assignment/Surplus	no - layoff
Reassignment	yes - 15 to 20% each year through surplus	no
Vacation	no	yes
Sick leave	By hours worked	Biweekly
Funeral Leave	yes	yes
Health Insurance	yes	yes
Holidays	no floating	2 or 3 floating
Workplace	schools (2 at Doyle)	District-wide
Supervisor	Principals	Principals, any other administrator depending on location

With respect to the salaries, the minimum rate for the EA's is \$6.96 for the period of August 15, 1993 through August 13, 1994, and the minimum in the SEE unit is \$751.00 bi-weekly for the period August 29, 1993 through August 27, 1994.

11. The duties of the Volunteer Coordinator directly or indirectly assist professional staff in the instructional program to a greater degree than said duties are secretarial, clerical, or technical and related office duties.

On the basis of the above and foregoing Findings of Fact, the Commission

issues the following

CONCLUSION OF LAW

1. The Volunteer Coordinator is appropriately included in the educational assistants' bargaining unit.

Based upon the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT 1/

The Volunteer Coordinator shall continue to be included in the educational assistants' bargaining unit.

Given under our hands and seal at the City of
Madison, Wisconsin this 22nd day of September,
1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

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227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

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. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first

class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

MADISON METROPOLITAN SCHOOL DISTRICT

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSION OF LAW AND
ORDER CLARIFYING BARGAINING UNIT

BACKGROUND

The disputed Volunteer Coordinator is currently included in the EA unit and MTI seeks to put the Coordinator in the SEE unit.

POSITIONS OF THE PARTIES

MTI

MTI contends that the Volunteer Coordinator (CHAMP) position has a close community of interest to positions in the SEE unit and the position performs duties similar to those of SEE unit employees. It submits that, contrary to the District's assertions, the District created and staffed a position designated the Volunteer Coordinator (CHAMP) position. MTI submits that the EA unit is made up of employees who are "directly or indirectly assisting the professional staff in the instructional program." It notes that educational assistants work in regular education classrooms as well as other areas such as the office or LMC and Handicapped Children Assistants work specifically with students with disabilities. It agrees that the big difference between the various EA's is their work setting or location. It points out that the job of a regular EA is as follows:

Under the supervision of the building principal or direction of a professional educator, give program assistance in a variety of settings; for example, the office, classroom and library.

EA's, according to MTI, work with the District's professional educators and students in the educational process.

MTI asserts that the Volunteer Coordinator does not work with a specific educator in a specific office, classroom or library and does not perform an educational function. In reviewing the job duties of the Volunteer Coordinator, MTI submits that they are more in the nature of community outreach and providing service to Cherokee School rather than a particular classroom or teacher.

MTI states that the SEE unit includes positions having responsibilities which are of a community outreach nature, serving a school or the District in general. It refers to the Minority Recruiting/Human Resource Specialists, Program Assistants (At Risk), Bilingual Resource Specialist, Transportation Planner and Family/Community Liaison, all SEE unit positions which have duties and responsibilities which are of a community outreach nature serving a school or the District in general, the same as the Volunteer Coordinator.

MTI refers to the dispute between the parties over the placement of the Family/Community Liaison position which was submitted by the parties to William M. Mercer, Inc., the District's consultant, who determined that the position fit better with the SEE jobs. It claims that the same conclusion should be reached for the Volunteer Coordinator.

MTI maintains that the District's arguments that EA's are hourly, school year positions while SEE positions are biweekly ten or twelve month positions

which require testing and skills are not persuasive because SEE positions Family/Community Liaison, Clerk Receptionist and Substitute Clerical/Technical/Secretarial employees are hourly and the Clerk Receptionist and Family/Community Liaison do not require any testing or skill requirements. It submits that there is no rational basis for failing to place the Volunteer Coordinator (CHAMP) in the SEE unit. It argues that the Volunteer Coordinator (CHAMP) is appropriately included in the SEE unit.

District

The District contends there is no formal position of Volunteer Coordinator (CHAMP) because Lois Klingele was hired as an EA and the only "job description" for the position was the one developed by Klingele. It submits that the duties assigned to her by Principal Ramberg are those assigned as an EA. It argues that MTI is attempting to move a non-existent position into the SEE unit. It further notes that the continuation of the program and Klingele as Coordinator is at the discretion of Principal Ramberg and is determined on a year-to-year basis. It asserts that a unit clarification is inappropriate in this case.

The District maintains that even if the Volunteer Coordinator may be treated as a separate position, it does not share the requisite community of interest with SEE unit employees. It notes that other schools have EA's performing similar duties to Klingele; her wages, hours and conditions of employment are likewise similar to other EA positions; her duties and skills are similar to EA's and she shares a common workplace with EA's. Conversely, according to the District, there are not significant comparable similarities to SEE unit employees in duties, benefits or working conditions. The District admits that there is no skill requirement for the Family/Community Liaison position but the District contends that it is inappropriate to move unskilled positions into the SEE unit because an exception was made for the Family/Community Liaison position, which was moved to raise the pay level of that position due to its similarity with the Bilingual Resource Specialist.

The District notes that clerical and EA functions may co-exist in both units but the mere overlap of duties does not necessitate moving a position from one unit to the other.

The District argues that the Volunteer Coordinator is not comparable to the Family/Community Liaison position. It submits that the Liaison position was moved to the SEE unit because there was a need to increase the wages for the work they were doing and Mercer determined they had community outreach functions as they spend about 50 percent of their time out in the community working with families, providing transportation, directing self-help and self-esteem groups and working in community centers. The Volunteer Coordinator, according to the District, works mainly at the school providing the administrative framework for the mentoring program and has no community outreach function nor was the position ever intended to provide such a function. It points out that MTI requested the Coordinator of the Family/Community Liaison program, Dr. Virginia Henderson, to compare the positions of Family/Community Liaison with the Volunteer Coordinator (CHAMP) and she found that the positions were quite different and the Volunteer Coordinator did not have the intense involvement of the Liaison with the community and the families and the schools.

The District concludes that based on the duties, hours, working conditions, benefits, qualifications and skill requirements, the Volunteer Coordinator for the CHAMP program is appropriately placed in the EA unit.

MTI's Reply

MTI insists that the District's continued argument that there is no "formal" position of Volunteer Coordinator of the CHAMP program is hard to understand as there is a CHAMP program which is coordinated by the Volunteer

Coordinator who has specific duties and responsibilities which is the position at issue in this proceeding.

MTI asserts that to the extent the position shares a similarity of wages, hours and working conditions and benefits with EA unit positions, it is only because the District unilaterally, over MTI's objections, included the position in the EA unit. Thus such similarities should have no bearing on this case. It submits the EA's by definition work directly or indirectly assisting professional staff in the instructional program and the Volunteer Coordinator (CHAMP) does not meet this definition. It insists that the Volunteer Coordinator works out in the community with families and students as does the Family/Community Liaison position and that there is no rational basis to exclude the Volunteer Coordinator from the SEE unit.

District's Reply

The District maintains that it has never taken the position that the program administered by the Volunteer Coordinator at Cherokee is anything but a valuable, successful mentoring program. It does claim that the program is for Cherokee students and the position is an educational assistant with duties similar to those performed by other educational assistants. The District submits that the position works under the supervision of the building principal giving program assistance to school staff and performs an educational function.

The District asserts that MTI is in error when it stated in its brief that the Clerk/Receptionist has no testing or skills requirement; rather, there was a grandfather clause and all future applicants will be required to pass any skills test required. The District notes that both the Clerk/Receptionist and Family/Community Liaison positions were brought into the SEE unit by addenda to address differences regarding hours and benefits. The District states that neither the pay issue nor the issue of performing clerical duties have been argued as reasons to move the position to the SEE unit. The District contends that seeking more pay for a position is an issue for collective bargaining and not a valid argument to move a position through a unit clarification proceeding.

DISCUSSION

The scope of the two units in question is generally defined in the parties' collective bargaining agreements by the duties of the employees. The EA unit consists of employees "directly or indirectly assisting professional staff in the instructional program. . . ." The SEE unit consists of employees "engaged in secretarial, clerical, technical and related office duties. . . ." Thus, in our view, the unit placement of the Volunteer Coordinator turns on whether her duties best fit the EA or the SEE contractual language.

This case presents a close question in part because the record establishes an overlap in duties actually performed by each unit. However, on balance, we are persuaded the duties of the Volunteer Coordinator "directly or indirectly assist professional staff in the instructional program" to a greater degree than said duties are "secretarial, clerical or technical and related office duties." Thus, we conclude the Volunteer Coordinator's inclusion in the EA unit is appropriate.

We reach this conclusion because the Volunteer Coordinator's duties involve substantial student contact in the school in furtherance of the students' successful educational progress. Like other educational assistants, including those functioning as the Attendance Coordinator and the Study Coordinator/Transition Coordinator at Cherokee Heights Middle School, the Volunteer Coordinator's duties focus on contact with students in the school in support of the educational process. As a general matter, SEE unit employee contact with students is only incidental to the educational process.

MTI relies heavily on the inclusion of the Family/Community Liaison position in the SEE unit as support for its position in this proceeding. However, in our view, the Liaison position is primarily focused on community outreach as opposed to direct student contact in the school. 2/ Further, the Mercer analysis which produced the SEE placement for the Family/Community Liaison position was not focused on the contractual unit description language which we find controlling in this proceeding.

Given the foregoing, we have concluded the existing unit placement of the Volunteer Coordinator is appropriate.

Dated at Madison, Wisconsin this 22nd day of September, 1994.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/

A. Henry Hempe, Chairperson

Herman Torosian /s/

Herman Torosian, Commissioner

William K. Strycker /s/

William K. Strycker, Commissioner

2/ This is also true in varying degrees for the other SEE unit positions of Bilingual Resource Specialist, Resource Specialist, Transportation Planner, Program Assistants (At Risk) and Minority Recruiting/Human Resource Specialist upon which MTI also relies.