

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

WISCONSIN COUNCIL OF COUNTY AND
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO

Involving Certain Employees of

KENOSHA VOCATIONAL, TECHNICAL AND
ADULT EDUCATION DISTRICT NO. 6
(GATEWAY TECHNICAL INSTITUTE)

Case VIII
No. 20174 ME-1293
Decision No. 14993-F

Appearances:

Mr. Richard W. Abelson, District Representative, WCCME, appearing
on behalf of the Union.

Mr. Mark L. Olson, Mulcahy & Wherry, S.C., Attorneys at Law,
appearing on behalf of the Employer.

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

Local 2738, AFSCME, AFL-CIO having, on September 12, 1978, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to clarify an existing certified collective bargaining unit consisting of all regular full-time and regular part-time clerical employees of the Kenosha Vocational, Technical and Adult Education District No. 6; and a hearing in the matter having been held at Kenosha, Wisconsin on December 14, 1978, before William C. Houlihan, a member of the Commission's staff; and a post-hearing brief having been received from the Municipal Employer on August 29, 1979; and the Commission, having considered the evidence and arguments of the parties, issues the following Findings of Fact, Conclusion of Law and Order Clarifying Bargaining Unit.

FINDINGS OF FACT

1. That Kenosha Vocational, Technical and Adult Education District No. 6, hereinafter referred to as the District, is a municipal employer within the meaning of Section 111.70(1)(a), Wis. Stats.

2. That Local 2738, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization within the meaning of Section 111.70(1)(j), Wis. Stats.

3. That the Union is the certified exclusive representative of the collective bargaining unit consisting of all regular full-time and regular part-time clerical employees of the District but excluding supervisory, managerial and confidential employees, and all other employees of the District.

4. That Sue Walter, occupying the position of Payroll Technician, has access to, knowledge of, and participates in confidential matters relating to labor relations.

On the basis of the foregoing Findings of Fact, the Commission makes and issues the following

No. 14993-F

CONCLUSION OF LAW

That the position of Payroll Technician is a confidential position, and, therefore, the occupant of that position is not a municipal employee within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act.

Upon the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

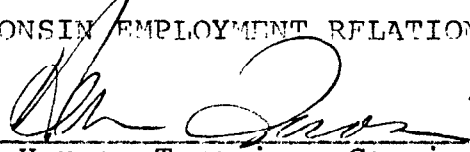
ORDER CLARIFYING BARGAINING UNIT

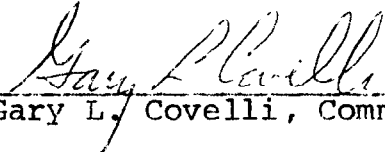
That the position of Payroll Technician shall not be included in the bargaining unit described above.

Given under our hands and seal at the
City of Madison, Wisconsin this 28th
day of February, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

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

The Union was certified as the exclusive bargaining representative of the clerical employees of the District following an election conducted pursuant to a Direction of Election 1/ issued by the Wisconsin Employment Relations Commission on October 21, 1976. Among the disputed issues resolved by the Direction of Election and Accompanying Memorandum was the status of the Finance Clerk position, then occupied by Linda Rende. In its Direction of Election, the Commission rejected the Municipal Employer's contention that Rende was a confidential employee, on the basis that she did not perform any confidential functions at the time of the hearing.

Ms. Rende left her position with the District, causing the Finance Clerk position to be vacant. In announcing the vacant position, the Municipal Employer retitled it Payroll Technician, and added a number of job functions. The added functions included:

Costing of negotiating offers during negotiations.
Work with negotiating committee during negotiations.
Prepare salary schedule projections for negotiating.
Prepare salary projection data on an on-going basis throughout the year.
Typing of grievances and being involved with grievance proceedings.

Based upon these added duties, it is the contention of the District that the Payroll Technician position, currently occupied by Sue Walter, is confidential.

On November 16, 1978, Sue Walter was made a member of the District's negotiating team. In this capacity Walter would be expected to attend and participate in meetings of the District's negotiating team. She would be responsible for costing salary and benefit packages proposed by the various labor organizations 2/ and would also be responsible for preparing various salary and benefit packages under consideration by the District team. The range of salary and benefit packages under consideration by the District, the parameters of which would be established by Walter's work, is information which is not available to the union(s). She would attend management meetings where alternative proposals are discussed and would be privy to the decision-making process and strategy of the District.

This access to the District's decision-making process with respect to labor relations is sufficient to place the Payroll Technician in a confidential position with respect to the Municipal Employer. 3/ In addition, the bargaining cost analysis duties that are performed by the Payroll Technician which have been added since the original Direction of Election are further grounds for our conclusion that this is a

1/ Kenosha Vocational, Technical & Adult Education District No. 6
(Gateway Technical Institute) Case No. 14993, 11/76

2/ The District presently negotiates with three separate bargaining units representing teachers, custodians, and clerical employees.

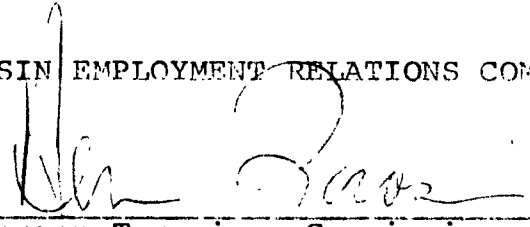
3/ Wisconsin Heights School District, Decision No. 17182, 8/7/79.

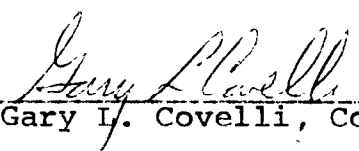
confidential position. The cost analysis function, cannot be performed by any of the other confidential employees since they are not required to have the accounting background required of the Payroll Technician.

Dated at Madison, Wisconsin this 28th day of February, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner