

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
WISCONSIN FEDERATION OF TEACHERS
For Clarification of the Bargaining
Unit for Certain Employees in the
Employ of

Case LXXXV
No. 20134 SE-82
Decision No. 15108

STATE OF WISCONSIN (PROFESSIONAL -
EDUCATION)

Appearances:

Goldberg, Previant and Uelmen, Attorneys at Law, by Mr. John S.
Williamson, Jr., appearing on behalf of the Petitioner.
Mr. Lionel L. Crowley, Attorney at Law, State of Wisconsin,
Department of Administration, Employment Relations Section,
appearing on behalf of the State of Wisconsin.

ORDER CLARIFYING BARGAINING UNIT

Wisconsin Federation of Teachers having on February 4, 1976,
filed a petition with the Wisconsin Employment Relations Commission,
requesting the Commission to determine whether an individual occupying
the classification of Vocational Education Consultant II - Management,
employed by the State of Wisconsin in the Board of Vocational, Technical
and Adult Education, should, or should not, be included in the state-
wide Professional - Education unit, presently represented by said Union;
and pursuant to a Notice of Hearing, hearing having been held in the
matter at Madison, Wisconsin, on May 12, 1976, Dennis P. McGilligan,
Hearing Officer, being present; and the Commission having considered
the evidence, arguments and briefs of Counsel, and being fully advised
in the premises, and being satisfied that the occupant of the position
of State Extension Coordinator within the classification of Vocational
Education Consultant II - Management, performs duties which are managerial
in nature;

NOW, THEREFORE, it is

ORDERED

That the occupant of the position of State Extension Coordinator
within the classification of Vocational Education Consultant II -
Management be, and the same hereby is, excluded from the Professional -
Education unit.

Given under our hands and seal at the
City of Madison, Wisconsin this 15th
day of December, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

Morris Slavney, Chairman

Herman Torosian, Commissioner

**MEMORANDUM ACCOMPANYING
ORDER CLARIFYING BARGAINING UNIT**

The Union is the certified bargaining representative of employees employed by the State of Wisconsin in the state-wide unit of professional educational employees. On February 4, 1976, the Union filed a petition for clarification of a newly created classification of Vocational Education Consultant II - Management, presently filled by Mr. Samuel Munson with the working title of State Extension Coordinator. Hearing in the matter was held on May 12, 1976, at Madison, Wisconsin. A transcript was issued on September 24, 1976. The State Employer filed a brief on October 18, 1976. The Union filed its brief on October 19, 1976.

Munson as State Extension Coordinator administers the Circuit Relations Program which employs more than forty instructors who teach vocational classes throughout the State on an itinerant basis. The Circuit Relations Program is a cooperative educational program which began in 1924 by approval of the plan by the State Board of Vocational, Technical and Adult Education and local Boards of Vocational, Technical and Adult Education. There are sixteen Vocational Districts covering the entire State, which receive services from the Circuit Program. The program functions through a pseudo-district, with five District Directors, who are appointed by the chairman of the Administrators Association 1/ functioning like a local school board, and the State Extension Coordinator functioning as a "District Director."

The Union claims that the State Employer seeks to negate the prior agreement of the parties by excluding a position it agreed to include within the bargaining unit. The Employer argues that Munson's duties have changed significantly since the stipulation and certification in early 1974.

Generally, in a unit clarification proceeding, the Commission will not change the Compliment of a bargaining unit which was voluntarily agreed upon and recognized as being appropriate and where the agreement is not repugnant to the act, 2/ and, further, where there is an absence of any intervening events which materially affect the status of the employees in issue. 3/ The issue herein is whether Munson's duties and corresponding change in classification have changed sufficiently to exclude him from the unit as a managerial employee.

Prior to 1973 Munson was a Vocational Education Consultant I, a position included in the unit. As a Consultant I, Munson reviewed vocational/technical programs and made recommendations regarding same primarily in the apprenticeship related instruction area. Sometime in 1973 Munson took over the duties as the State Extension Coordinator.

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- 1/ The Administrators Association represents the sixteen vocational, technical District Directors. The chairman of that group appoints five people to represent the Districts in the Circuit Relations Program and they comprise the Circuit Relations Committee.
 - 2/ City of Cudahy, (12997) 9/74.
 - 3/ Milwaukee Board of School Directors, (13134-A) 1/76.

In connection with this change Munson was reclassified to a Vocational Education Consultant II, a position also included in the unit. However, Munson only performed the full duties required of the State Extension Coordinator after being relieved of his other duties in late 1974. Subsequently in late 1975 Munson was reclassified to the position of Vocational Education Consultant II - Management, a position not presently included in the unit.

The unit was certified on February 7, 1974. 4/ The record indicates that prior to certification and for a period thereafter Munson's job duties did not materially change. Toward the end of 1974, however, Munson began performing duties entirely different from those previously performed. Based on the change in duties, the State Employer seeks the exclusion of the position as managerial. The Union, on the other hand, would include the position in the unit, contending that Munson does not act in a managerial capacity. In addition, the Union stresses the point that the Circuit Instructors are municipal employees and contends that Munson does not act as a supervisor in regard to bargaining unit employees, other State employees or the State itself.

Since the State Employer does not seek the exclusion of the position from the unit as supervisory, the Commission finds it unnecessary to make a determination concerning that issue. Therefore, the Commission examines the record in order to determine whether Munson acts in a managerial capacity.

The Wisconsin State Board of Vocational, Technical and Adult Education, hereinafter referred to as the State Board, has the primary responsibility for the operation of the Circuit Program. This includes responsibility and liability for contracts, including contracts of employment entered into in conjunction with the Circuit Relations Program. The Circuit Relations Committee of the Wisconsin Association of VTAE Administrators serves as the State Board's agent and representative in all matters pertaining to the Circuit Relations Program. The administrative duties of the Executive Secretary of the Circuit Relations Committee are assumed by the representative of the State Board's staff, designated as the "State Extension Coordinator."

Munson, as the State Extension Coordinator, is responsible for all of the administrative functions of the Circuit Relations Program. In this capacity, he directs some forty-two full-time instructors and three part-time instructors, working in approximately seventy cities within the Vocational-Technical districts. He is responsible for programming and assignment and reassignment of Circuit Instructors. Munson receives applications, interviews applicants, and in case of vacancies makes recommendations to the aforementioned Committee regarding placement on the salary schedule, classification and professional status of Circuit Instructors. Munson also evaluates said employees. In addition, he is responsible for the hiring of personnel, layoff of personnel and discipline.

Munson acts as Secretary of the Committee. In this capacity he conducts studies, evaluates and presents to the Committee recommendations concerning the present program, expansion and curtailment of program and circuits. Munson acts as liaison officer of the Committee with the District Directors, the State Director, state agencies, organizations,

4/ Department of Administration (Professional - Education), (11884-F, 11885-F) 2/74.

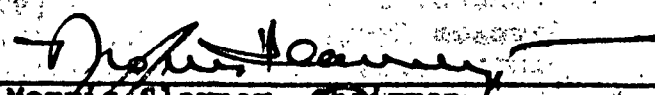
groups and individuals where the related training for apprentices is involved. He works directly with the various District Directors on all matters relating to the Circuit Relations Program, and as such he directs the program in an executive capacity and makes decisions according to the needs and requests of the various districts. Consistent with said responsibilities, he schedules the Circuit Instructors according to the requests of the various districts, and therefore participates in determining the quantum of service provided to each district.

Based on the above, the Commission is satisfied that the position involved herein, occupied by Samuel Munson, formulates, determines and implements 5/ the State's policy respecting its Circuit Relations Program so as to be managerial within the meaning of Section 111.80(20) of SELRA.

Dated at Madison, Wisconsin this 15th day of December, 1976.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner

5/ See Milwaukee vs. WERC, (1976), 71 Wis. 2d 709, 716, 239 N.W. 2d 63.