

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

LINCOLN COUNTY DEVELOPMENTAL
DISABILITIES BOARD

No. 16847

2. That all regular full-time and regular part-time employees in the employ of the Lincoln County Developmental Disabilities Board, excluding professional, managerial, supervisory and confidential employees, constitutes an appropriate collective bargaining unit within the meaning of Section 111.70(4)(c)2.a. of the Municipal Employment Relations Act.

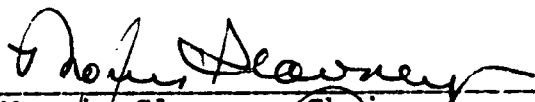
Upon the basis of the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

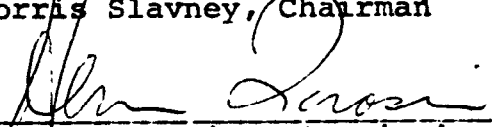
DIRECTION OF ELECTION

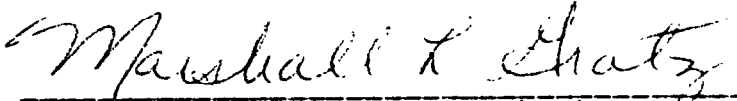
That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this Directive in the appropriate collective bargaining unit consisting of all regular full-time and regular part-time employees in the employ of the Lincoln County Developmental Disabilities Board, excluding professional, managerial, supervisory and confidential employees, who are employed by Lincoln County on February 16, 1979, except such employees as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employees casting valid ballots desire to be represented by the Developmental Disabilities Staff Association for the purposes of collective bargaining with the Lincoln County Developmental Disabilities Board on questions of wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin this 16th
day of February, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Herman Torosian, Commissioner


Marshall L. Gratz, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND DIRECTION OF ELECTION

The petition filed by the Association contained the following bargaining unit description:

All regular full-time and part-time employees of the Lincoln County Developmental Disabilities Board, excluding managerial, supervisory and confidential employees.

The Association requested, without objection by the County, that the professional employees be allowed to vote on the question of whether or not they desired to be included in the non-professional unit. At the hearing, the parties agreed to inform the Commission as to which of the employees were professionals. In a post-hearing letter, the Association stated that it considered the positions of Center Director-Case Manager and Work Procurement Director to be professional in nature. The County's post-hearing written statement, while agreeing that said positions were professional, further stated that the positions were also supervisory in nature. At the hearing, the parties presented evidence with respect to the County's contention that the two individuals occupying the position of Center Director-Case Manager are supervisors, and, a determination on that issue follows. The County did not raise the issue of supervisory status of the Works Procurement Director at the hearing, so a determination cannot be made thereon without additional hearing. However, said position is currently vacant. Therefore, for reasons set forth below, the Commission is directing an election only in the unit of non-professional employees. If the vacant position of Works Procurement Director is subsequently filled, the parties can request a hearing to determine whether said position is supervisory, and if not, whether another election should be held to determine whether or not the then incumbent professional employee wishes to be included in the bargaining unit of non-professional employees.

The parties agreed that the position of Program Director, also referred to as Executive Director, should be excluded from the bargaining unit.

The Municipal Employer operates rehabilitation centers for individuals with developmental disabilities at Tomahawk and Merrill. Under the direction of a County established Board, the Program Director is responsible for both of said centers, although that position was vacant at the time of the hearing herein. In fact, the position of Program Director has been vacant for approximately fifty percent (50%) of the time since the Developmental Disabilities Board was created in 1973. A Center Director-Case Manager, who reports to the Program Director is located at each center and is responsible for the daily operation of their respective centers. The Center Director at Tomahawk, Laurie Ferqe, has a staff of three activity supervisors and an account clerk. The Center Director at Merrill, Kathryn Heymann, has a staff of two activity supervisors, a bus driver and an account clerk.

The Center Directors develop programs for individual clients, and then, supervise the implementation and administration of such programs by the activity supervisors. The Center Directors also conduct weekly meetings of the Center's employees, at which the programs of individual clients are discussed and changes are made, if necessary. When an activity supervisor is absent, the Center Director either assumes the activity supervisor's duties, reassigns such duties to other staff members, or, calls in a temporary replacement. The Center Directors have granted staff requests for time off, although requests for an

extended period of absence are referred to the Board or the Program Director. Similarly, the Center Directors have authorized staff members to work overtime on occasion, but not for an extended period of time. Although vacation requests are given to the Center Directors, such requests are merely relayed to the Program Director,, or the Board, for action. The Center Directors expressed their belief that they did not have the authority to approve employee requests for compensatory time off in the absence of a Program Director, although the record is clear that the staff employees have been utilizing compensatory time off in small amounts with the knowledge of the Center Directors, but without the prior approval of the Board.

The Center Directors have been involved in the hiring of new employees on some occasions, but not in all instances. In some instances the Center Directors have recommended for employment individuals who have performed volunteer work at their Center. On other occasions, the Center Directors have participated in the interviews of applicants. Such involvement has occurred both when the position of Program Director has been vacant and when it has been occupied.

Each Center Director has been involved in one disciplinary situation. In both situations, after the Board had been informed of the Center Director's concerns about a bus driver's performance, the Board discharged the bus driver. In neither case had the Center Director recommended that any disciplinary action be taken.

The Center Directors have completed annual written evaluations of the other employees at their respective Centers. Although at least one of the Center Directors has recommended to the Board that certain of the employees at that Center be given wage increases, said recommendations were not approved.

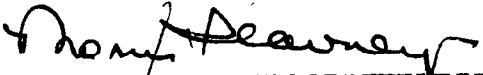
Both Center Directors are college graduates. Although at least one of the activity supervisors is a college graduate, the rest do not have a college degree. The Center Directors receive a monthly salary, which is substantially higher, on a monthly basis, than the hourly rate at which the activity supervisors are paid. The Center Directors work an eight hour day with an unpaid lunch break, while the activity supervisors work seven or seven and one-half hour days, including a paid lunch break. The compensatory time off program for the Center Directors is different from the program for the other employees.

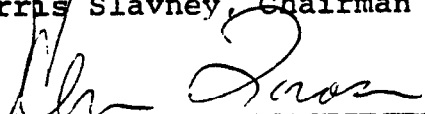
Based on the authority of the Center Directors to assign, direct and evaluate the work of the activity supervisors, as well as their involvement in the employment process, their higher level of pay and their different working conditions, and further, because their exercise of authority is not merely routine, but requires the use of independent judgment, the Commission concludes that the Center Directors are supervisors within the meaning of Section 111.70(1)(c)1 of the Municipal Employment Relations Act.

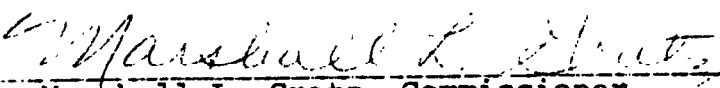
Dated at Madison, Wisconsin this 16th day of February, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


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