

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

- - - - -
In the Matter of the Petition of :
COLUMBUS ASSOCIATE PERSONNEL, : Case IV
CAPITAL AREA UNISERV-NORTH : No. 24752 ME-1688
Involving Certain Employees of : Decision No. 17259
COLUMBUS SCHOOL DISTRICT :
- - - - -

Appearances:

A. Philip Borkenhagen, Director, Capital Area UniServ-North,
appearing for the Petitioner.
Karl Monson, Consultant, Wisconsin Association of School Boards,
appearing on behalf of the Municipal Employer.

DIRECTION OF ELECTION

Columbus Associate Personnel, Capital Area UniServ-North having filed a petition, on June 27, 1979, with the Wisconsin Employment Relations Commission, requesting the Commission to conduct an election, pursuant to the provisions of the Municipal Employment Relations Act, among certain employees of the Columbus School District; and a hearing in the matter having been held on July 20, 1979 and August 3, 1979, at Columbus, Wisconsin, before Timothy E. Hawks, Examiner. The Commission, having considered the evidence and being satisfied that questions concerning the appropriate bargaining unit and representation have arisen involving certain employees of the Municipal Employer named above, makes and issues the following

FINDINGS OF FACT

1. That Columbus Associate Personnel, Capital Area UniServ-North, hereinafter referred to as the Association, is a labor organization and has its offices at 6414 Copps Avenue, Suite 218, Madison, Wisconsin. 53716.
2. That the Columbus School District, hereinafter referred to as the District, has its offices at Columbus, Wisconsin and operates a school system, wherein it provides educational services to primary and secondary students in four schools, namely, the Fuller Street Elementary School, the Hampden School, Dickason Upper Elementary and Junior High School, and the Columbus High School. The District's offices are at 200 West School Street, Columbus, Wisconsin, 53925.
3. That the District employs, among others, thirteen teacher aides, four clerical and secretarial employees, eight maintenance and custodial employees and nine food service personnel.
4. That the Association seeks an election in a collective bargaining unit consisting of all "full-time and regular part-time employees of the District, including teachers aides, secretarial and clerical staff, food service, custodial and maintenance personnel, but excluding all supervisors, managerial and confidential employees, and all other employees of the District" 1/ for the purpose of

1/ The bargaining unit description was amended at the hearing to overcome the District's objection to the petitioner's use of the term "non-professional." Because the description as amended is still inadequate we have further amended the description to exclude professionals.

determining whether or not such employees desire representation by the Association for the purpose of collective bargaining. The District, on the other hand, seeks separate elections among said employees in four separate bargaining units: (1) aides, (2) clerical and secretarial staff, (3) maintenance and custodial staff, and (4) food service staff.

5. That the members of all four employee classifications at issue herein work at a distinct location in one of the school buildings. Thus, for example, teachers aides may be found at all four schools, clerical and secretarial staff may be found at the High School, Fuller School and Dickason School, the custodial staff may be found at all four schools, and the food service staff may be found at all four schools. To this extent, members of all four units share a common workplace. Similarly, supervision of all four units is provided by the school building principal in which the employees work; hence, there is shared supervision of all four units. The employees in all four groups have common fringe benefits in the following particulars: (1) all employees receive a "longevity service" payment of one dollar per month for each year of service after the completion of five years of service; (2) the School District contributes two dollars per week for all non-professional employees toward their retirement; (3) the District pays for full single or family health insurance coverage up to an amount 15 percent higher than that paid during the 1977-78 school year; (4) all non-professional employees receive one day of sick leave per month with a maximum accumulation of 90 days; (5) all non-professional employees receive two emergency days per year accumulative to three days; (6) custodians and clerical employees work a 261-day year, whereas, teachers aides and food service personnel have a work year that corresponds to the school year.

6. That the duties and skills of the employees in the unit sought by the Petitioner vary distinctively from one group to the next. The wages vary from one group to the next in the following regard: (1) a cook or food service employee with three years of experience would receive between \$24.00 and \$29.28 per day; (2) custodial employees of three years of experience would receive between \$31.32 and \$34.25 per day; (3) the clerical or secretarial employee with three years of experience would receive between \$27.00 and \$32.40 per day; (4) the teachers aide with three years of experience would receive \$24.80 per day.

7. That the District has a history of requesting from each individual group of non-professional employees a proposal regarding wages, hours and conditions of employment. Traditionally each group has responded with a specific proposal which the District then discussed with the individuals in the group. After such discussions, the District has unilaterally implemented its own counter-proposal.

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

CONCLUSION OF LAW

That all regular full-time and regular part-time employees of the District, including teachers aides, secretarial and clerical staff, food service, custodial and maintenance personnel, but excluding all professional employees, supervisors, managerial and confidential employees is an appropriate collective bargaining unit within the meaning of Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act.

NOW, THEREFORE, it is

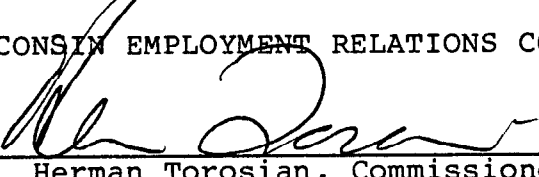
DIRECTED

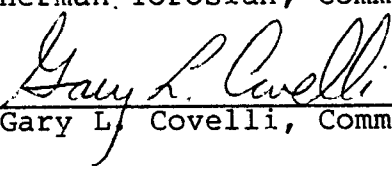
That an election by secret ballot shall be conducted under the direction of the Wisconsin Employment Relations Commission in the collective bargaining unit consisting of all regular full-time and regular part-time employees of the School District of Columbus including teachers aides, secretarial and clerical staff, food service, custodial and maintenance personnel, but excluding all professional employees, supervisors, managerial and confidential employees who were employed on September , 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 Columbus Associate Personnel, Capital Area UniServ-North, for the purposes of collective bargaining with the Columbus School District with respect to wages, hours and conditions of employment.

Given under our hands and seal at the
City of Madison, Wisconsin this 13th
day of September, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

MEMORANDUM ACCOMPANYING DIRECTION OF ELECTION

The Association seeks an election in an overall unit consisting of all regular full-time and regular part-time non-professional employees of the District including teachers aides, secretarial and clerical staff, food service, custodial and maintenance personnel to determine whether said employees desire to be represented by the Association for the purpose of collective bargaining. The District contends that the unit sought by the Association is not an appropriate bargaining unit. The District claims that each separate group of employees is in itself an appropriate bargaining unit. Thus, the sole issue presented is the question of the appropriate bargaining unit(s). 2/

In determining whether the unit sought by the Association is an appropriate unit, the Commission must consider Section 111.70(4)(d)2.a. of MERA, which provides as follows:

The Commission shall determine the appropriate unit for the purposes of collective and shall whenever possible avoid fragmentation by maintaining as few units as practicable and keeping with the size of the total municipal work force. In making such determination, the Commission may decide whether, in a particular case, the employees in the same or several departments, division, institutions, crafts, professions or other occupational groupings constitute a unit.

In applying the above statutory criteria in establishing appropriate bargaining units, the Commission has considered the following factors: 3/

1. Whether the employees in the unit sought share a "community of interest" distinct from that of other employees.
2. The duties and skills of employees in the unit sought as compared with the duties and skills of other employees.
3. The similarity of wages, hours and working conditions of employees in the unit sought as compared to wages, hours and working conditions of other employees.

2/ At the outset of the hearing the District claimed that certain employees working as chief custodians and head cooks (Helwig, Dynes, Lorraine Drabek, Bill Drabek, Raether and Sramek) were supervisory employees and therefore ineligible to vote. The District also claimed that certain employees working as secretaries to school principals and in the school office (Salzewedal, Huebner, Gagnon and Duffy) were confidential employees and that Timmons, a part-time cook, was not a "regular" employee. The parties subsequently stipulated that Georgia Adams, food service director, was the only supervisory employee and that Gagnon (or the position formerly held by Gagnon) and Duffy, who work in the school office, were confidential employees. All other disputed positions were stipulated by the District and the Association to be properly included in the unit and therefore eligible to vote.

3/ See Kenosha Unified School District No. 1 (13431) 3/75; Lodi Joint School District No. 1 (16667) 11/78; Wisconsin Heights School District (17182) 8/79.

4. Whether the employees in the unit sought have separate or common supervision with all other employees.
5. Whether the employees in the unit sought have a common workplace with the employees in said desired unit or whether they share a workplace with other employees.
6. Whether the unit sought will result in undue fragmentation of bargaining units.
7. Bargaining history.

The record establishes that in many respects there is a community of interest shared by all non-professional employees of the School District. As noted above in Finding of Fact 5, all employees have common supervision, a common workplace, and common fringe benefits. In addition, employees of two groups, the food service personnel and the teachers aides, have a work year that corresponds closely to the school year. Also, the maintenance and custodial employees and some clerical employees have a 261-day work year. In contradistinction to this, however, the record does establish several distinctions along the lines drawn by the District. In particular, there is distinction in the skills and duties exercised by the employees sought to be represented in a single unit by the Association that corresponds to their classification as food service personnel, clerical and secretarial personnel, teachers aides, and maintenance and custodial employees.

Of particular import to the issue before us is the mandate of Section 111.70(4)(d)2.a. that this Commission "shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force." In this case, the District seeks four units for thirty-four employees. In particular, the District's unit proposal would place thirteen employees among a unit of teachers aides, only four employees in a unit of clerical and secretarial staff, eight employees in a unit of maintenance and custodial staff and nine employees in a unit of food service staff. The Commission has interpreted Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act to mean that "there is a need for a pattern of bargaining units which permits employees the right to be represented in workable units by organizations of their own choosing, which may be reasonably expected to be concerned with the unique interests and aspirations of the employees in said units. To establish a unit wherein the interest of a large group of employees are likely to be submerged does not give adequate protection to the rights guaranteed to employees in MERA. However, units cannot be so fragmented so as to be inadequate for viable collective bargaining." ^{4/} The circumstances presented to the Commission in this case is not one in which the interests of a large group of employees are going to be submerged as a result of an overall bargaining unit as sought by the Association. In this regard we again note that while the nature of the work performed by the employees herein is different, they all have common supervision, a common workplace, and common fringe benefits. Further, in considering the size of the separate units proposed by the District as compared to the overall size of the work force, leads the Commission to conclude that on balance the facts preponderate in favor of MERA's policy of anti-fragmentation. We, therefore, conclude that a unit consisting

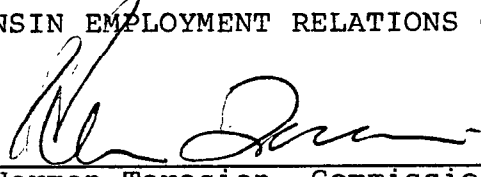
^{4/} Lincoln County (Social Services Department) (16845) 2/79.

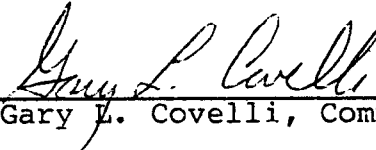
of teacher aides, secretarial and clerical staff, food service, and custodial and maintenance personnel is appropriate. 5/

Dated at Madison, Wisconsin this 13th day of September, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

5/ See Wisconsin Heights, Dec. No. 17182, 8/78, wherein the Commission, under similar facts, concluded that an overall unit consisting of secretaries, maintenance and janitorial, aides, lunch workers, and cooks constituted an appropriate collective bargaining unit. The Commission notes that the factual circumstances in this case may raise a question of whether the bargaining history may substantiate a finding for appropriate separate units. See, Lodi Jt. School Dist. No. 1, supra. In Lodi, we concluded that "primarily because of the bargaining history" the anti-fragmentation policy of MERA would be overcome and that a regular full-time and regular part-time custodial and maintenance unit distinct from the remainder of the non-professional employees was an appropriate collective bargaining unit under the Act. The circumstances presented before us in this case differ significantly from those in Lodi. In Lodi the District engaged in arms length bargaining encompassing several meetings with the custodial employees, whereas, in the instant case the Columbus School District consulted with its employees but then unilaterally implemented the District's position. In addition we note that the "Salary Schedule" which reflects the employer's position, provides exactly the same fringe benefits to all non-professional employees, hence suggesting that the employer treated all four groups as one for the purpose of setting fringe benefits. It is for these reasons we believe that the factual circumstances in this case are more akin to our Wisconsin Heights decision.