

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :
WISCONSIN FEDERATION OF TEACHERS : Case XIV
Involving Certain Employees of : No. 23715 ME-1600
GATEWAY VOCATIONAL, TECHNICAL AND : Decision No. 17449
ADULT EDUCATION DISTRICT :
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Appearances:

Mr. Steve Kowalsky, Representative, Wisconsin Federation of Teachers, appearing on behalf of the Petitioner.
Mr. Rolland Graf, Deputy District Director, Gateway Vocational, Technical and Adult Education District, appearing on behalf of the Municipal Employer. 1/

FINDINGS OF FACT, CONCLUSIONS OF LAW AND
DIRECTION OF ELECTION

Wisconsin Federation of Teachers, AFT, AFL-CIO, having filed a petition on November 7, 1978, 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 Gateway Vocational, Technical and Adult Education District; and a hearing having been conducted on December 21, 1978 at Kenosha, Wisconsin. Said hearing was thereafter reconvened on February 13, 1979, at Kenosha, Wisconsin, following which said hearing was again reconvened on March 5, 1979 at Kenosha, Wisconsin before Stuart S. Mukamal, Examiner. Following the distribution of a transcript and the submission of the Union's brief on April 12, 1979 and the District's brief on April 24, 1979, and thereafter, the District having filed a supplemental brief on May 22, 1979, the Commission having considered the evidence, and being satisfied that questions concerning employee status and representation have arisen involving certain employees of the District, makes and issues the following

FINDINGS OF FACT

1. The Wisconsin Federation of Teachers, AFT, AFL-CIO, hereinafter referred to as the Union, has its office at 6525 West Bluemound Road, Milwaukee, Wisconsin.
2. That the Gateway Vocational, Technical and Adult Education District, hereinafter referred to as the District, has its administrative offices at 3520 - 30th Avenue, Kenosha, Wisconsin.
3. That, in its petition initiating the instant proceeding, the Union seeks an election among employees employed by the District in the following alleged appropriate unit:

all full-time and regular part-time Community Services Division instructional personnel, including the ABE teachers and the ABE counselors, recruiters, Women's Bureau counselors, and consumer consultants, but excluding supervisory, managerial, and confidential employees.

1/ Post-hearing briefs were filed on the Municipal Employer's behalf by Mr. Mark L. Olson, Mulcahy & Wherry, S.C.

4. That during the course of hearing herein, the Union amended the description of the alleged appropriate unit to read as follows:

all full-time and regular part-time Community Services Division professional personnel, including, without limitation, ABE teachers, ABE counselors, recruiters, Women's Bureau counselors, Consumer Consultants, drivers ed instructors, program specialists, Consumer Education specialist, adult learning center teachers; but excluding supervisory, managerial, and confidential employes, and excluding those employes already in the clerical bargaining unit or the Instructional Division bargaining unit; also excluding custodial unit personnel.

5. That during the course of the hearing the parties stipulated that, should the Commission determine that the unit sought by the Union is appropriate, the following positions be included therein:

Adult Basic Education Counselor	Adult High School Teacher
Adult Basic Education Teacher	Program Specialist;

and that the following positions be excluded therefrom:

Announcer Technician (np)	Hourly Part-time Teacher (c)
Asst. Voc. Evaluator (du)	Job Developer (np)
BAIL Coordinator (s)	Project Director-Womens Bureau & Adult High School (s)
CETA Advisor (du)	Public Information Coordinator (s)
CETA Instructor (du)	Public Information Specialist (du)
EMS Instructor (s)	Recruiter Counselor (np)
Financial Aids Assistant (du)	Research Assistant (np)
Fire Service Teacher Coordinator (s)	SSI Outreach Worker (du)
Home Ec. Programmer (du)	Teacher (du)
Hourly Part-time ABE Teacher (c)	Teacher Aide (np)
Hourly Part-time Instructor (c)	Veteran's Counselor (du)

6. That also during the course of the hearing issues arose as to whether the classifications of ABE Para-professionals, Driver Education Teachers, Consumer Consultant, and Program Traffic Specialist should be included or excluded from the unit involved herein; that in said regard the District would exclude the ABE Para-professionals on the basis that non-professionals cannot be included in a unit with professionals unless

(np) Non-professional
(du) Included in another unit
(s) Supervisory position
(c) Casual Employee

the professionals vote to be included in a unit with non-professionals; that the District would exclude the Driver Education Teachers on the claim that they are "supervisors"; that the District would also exclude the Consumer Consultant and the Program Traffic Specialist, contending that the occupants thereof have an insufficient community of interest with the other positions in the unit; and that on the contrary, the Union would include all of said positions in the unit.

7. That at the time of the hearing herein there were seven individuals occupying the positions of Adult Basic Education (ABE) Para-professionals; that the educational requirements for said position includes two years of post high school training and a college level course in principals of adult education; and that the duties of said para-professionals consist of administering placement and progress test reports to students, completing weekly attendance reports, assisting with registration of students, maintaining student folders, assisting with routine housekeeping, assisting students with learning materials, assisting teachers with specific projects, and participating in local in-service sessions and/or staff meetings.

8. That the District employs three Driver Education Teachers, as well as some fifteen to eighteen part-time Driver Education Instructors, that the Driver Education Teachers have the authority to recruit said Instructors, to effectively recommend their hire, discipline and discharge; that said Teachers direct the Instructors, schedule their work, observe and evaluate the Instructors, and arrange for substitutes in the absence of Instructors; and that said Teachers spend approximately fifty per cent of their time teaching students.

9. That the Consumer Consultant position requires the incumbent thereof to possess a bachelor's degree, or equivalent thereof; that said incumbent is responsible for developing a consumer program which is intended to benefit the disadvantaged residing in the area served by the District, and that in said regard the position is responsible for the airing of such programs on local radio stations, presenting programs in person to various community groups; and that although the incumbent does not have a regular assigned course taught to students, she serves as a guest lecturer approximately two hours per week.

10. That the position of Program Traffic Specialist requires the incumbent thereof to possess an associate degree in broadcasting or its equivalent, two years of practical work experience in public or commercial radio as well as requiring the incumbent to be a qualified announcer/operator, with a third class FCC license; and that the occupant of the position coordinates a reading service for the handicapped, and also serves as an announcer on the District's public radio station; and that the occupant is not responsible for lesson plans or student instruction.

11. That the positions of Consumer Consultant and Program Traffic Specialists perform professional type duties in furtherance of the program of the District, that of providing community type services to persons residing in the geographical area served by the District.

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

CONCLUSIONS OF LAW

1. That neither the type of duties performed, nor the nature of the education or experience required to perform such duties, qualify the Adult Basic Education Para-professionals as "professional employees" within the meaning of Sec. 111.70(1)(1) of the Municipal Employment Relations Act (MERA).

2. That the occupants of the position of Driver Education Teacher perform supervisory duties in sufficient nature and degree so as to constitute such occupants as "supervisors" within the meaning of Sec. 111.70(1)(o) of MERA, and they therefore are not "employees" within the meaning of Sec. 111.70(1)(b) of MERA.

3. That since the individuals occupying the positions of Consumer Consultant and Program Traffic Specialist are required to be professional and are engaged in performing their duties in furtherance of the program of the District, along with other professional employees, said occupants have a sufficient community of interest with other professional employees in the employ of the Community Services Division of the District so as to be included in the same collective bargaining unit with the latter employees, all within the meaning of Sec. 111.70(4)(d)2.a. of MERA.

4. That all regular full-time and regular part-time professional employees in the employ of the Community Services Division of Gateway Vocational, Technical and Adult Education District, excluding managerial, supervisory, confidential, casual, non-professional, and further excluding all employees included in other bargaining units of employees of said District, constitute an appropriate collective bargaining unit within the meaning of Sec. 111.70(4)(d)2.a. of MERA.


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

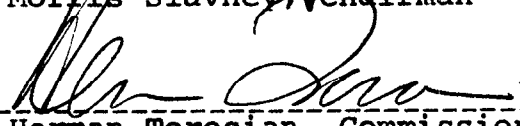
DIRECTION OF ELECTION

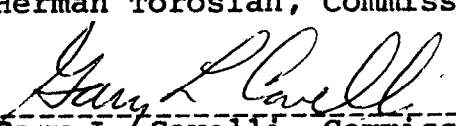
IT IS HEREBY DIRECTED that an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days of the date of this directive in the collective bargaining unit consisting of all regular full-time and regular part-time professional employees in the employ of the Community Services Division of Gateway Vocational, Technical and Adult Education District, excluding managerial, supervisory, confidential, casual, and non-professional employees, and further excluding employees included in other bargaining units of employees of said District, who were employed as of the date of this directive, except those 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 Wisconsin Federation of Teachers for the purposes of collective bargaining on wages, hours and working conditions, with the Gateway Vocational, Technical and Adult Education District.

Given under our hands and seal at the
City of Madison, Wisconsin, this 19th
day of November, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By  _____
Morris Slavney, Chairman

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Herman Torosian, Commissioner

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Gary L. Covelli, Commissioner


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

The issues involved herein, as well as the positions of the Union and District with regard thereto, are sufficiently set forth in the Findings of Fact, as are the facts material to the disposition of said issues. It should be clear to the parties as to the professional positions included in, and as to the employees excluded from, the collective bargaining unit found to be appropriate herein. The Commission requests the District to expedite the submission of a list of employees, in alphabetical order, eligible to vote in the election directed herein.

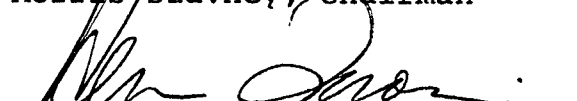
Dated at Madison, Wisconsin this 19th day of November, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION


By



Morris Slavney, Chairman



Herman Torosian, Commissioner



Gary I. Covelli, Commissioner