

In the Matter of the Petition of
WISCONSIN COUNCIL OF COUNTY AND
MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO
Involving Certain Employees of
SCHOOL DISTRICT OF ASHLAND

Appearances:

Mr. Harvey Johnson, District Administrator, appearing on behalf of the Municipal Employer.

Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, having petitioned the Wisconsin Employment Relations Commission to conduct an election among certain employees of the School District of Ashland; and a hearing on said petition having been conducted at Ashland, Wisconsin on September 4, 1980 by Sherwood Malamud, Examiner; and the parties having waived the preparation of a transcriptual record in the matter; and the Commission, having considered the evidence and arguments of the parties, and being fully advised in the premises, issues the following Findings of Fact, Conclusions of Law and Direction of Election.

5. All four classifications of food service employees work during the full school year. The Cooks work from five to seven and one-half hours daily. The Cook's Helpers put in two to four hours daily. The Dishwasher, who is training to become a Cook, also is a part-time daily employee, while the Servers work from one to two hours per day. A majority of the Servers have been employed in said position for a number of years. The occupants of all four positions are hourly paid. While the Cooks receive certain fringe benefits, none of the Cook's Helpers, Dishwasher, nor the Servers receive any of such fringe benefits.

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

CONCLUSIONS OF LAW

1. That all Cooks, Cook's Helpers, Dishwashers, and Servers in the employ of the School District of Ashland are municipal employees within the meaning of Section 111.70(b) of the Municipal Employment Relations Act.

2. That all regular full-time and regular part-time food service employees in the employ of the School District of Ashland, including Cooks, Cook's Helpers, Dishwashers and Servers, excluding Head Cook and all other employees, as well as managerial, supervisory and confidential personnel, constitute an appropriate collective bargaining unit within the meaning of Section 111.70(4)(d)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

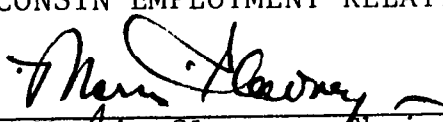
DIRECTION OF ELECTION

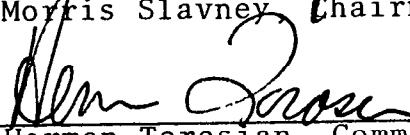
That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within thirty (30) days from the date of this directive among all regular full-time and regular part-time food service employees in the employ of the School District of Ashland, including Cooks, Cook's Helpers, Dishwashers, and Servers, excluding Head Cook, and all other employees, as well as managerial, supervisory and confidential personnel, who were employed on October 6, 1980, 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 voting desire to be represented for the purposes of collective bargaining by Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO, on matters relating to wages, hours and working conditions.

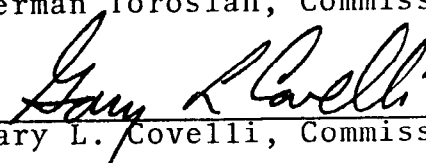
Given under our hands and seal at the City of Madison, Wisconsin, this 6th day of October, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

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

The Union seeks an election in a unit consisting of all food service employees. The District stipulated to the inclusion of the Cooks, Cook's Helpers, and Dishwasher in the bargaining unit, and at the hearing, the Union agreed to the exclusion of the Head Cook from the unit on the basis of her supervisory status.

The parties could not agree on the inclusion of the Servers in the unit. The District argues that the Servers do not share a community of interest with the Cooks, Cook's Helpers or Dishwasher. Only the Cooks receive fringe benefits. The District urges that the Commission find that the Servers are casual employees, since they work only one or two hours per day. The District notes that by including the Servers in the unit, they might ultimately receive higher pay than other hourly employees employed by the District.

The Union argues that the Servers share a community of interest with employees in the other food service classifications, and therefore, they should be included in the unit.

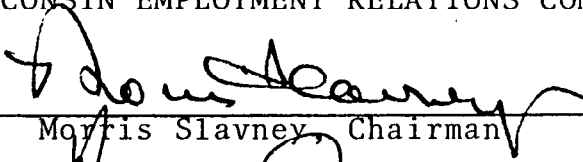
The Servers are scheduled and work on all school days for approximately one to two hours per day. Several Servers have worked for the District for several years, and they enjoy an expectation of future employment.

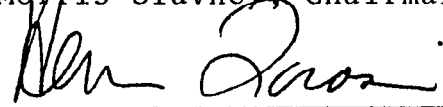
The Commission has a well-established policy of not requiring regular part-time employees to work a specified number of hours in order to be included among those eligible to participate in an election and, unless the Commission is presented with special circumstances indicating that a group, or groups, of regular part-time employees do not in fact have a definite interest in wages, hours and working conditions. 1/ Here the Servers are employed regularly on a daily part-time basis, as are the remaining food service employees. The fact that their daily hours of employment are less than the other part-time food service employees does not convert the Servers into casual employees. Further, the fact that the hourly rate of pay of the Servers might be increased as a result of being included in the unit is certainly no basis for their exclusion therefrom. One of the primary reasons that employees seek to be represented for the purposes of collective bargaining is to improve their wages, hours and working conditions. If the District's latter argument for excluding the Servers from the unit were valid, very few employees would seek such representation.


Dated at Madison, Wisconsin, this 6th day of October, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Herman Torosian, Commissioner


Gary L. Covelli, Commissioner

1/ Jefferson Joint School District No. 10, (15336) 3/77, (Servers);
See also Janesville Joint School District, (13617) 5/75 (instructional
aides); and Milwaukee County, (17224-A) 4/80 (food service employees
and other employees at a County Hospital).