

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

SCHOOL DISTRICT OF LOYAL

Case I  
No. 25775 ME-1800  
Decision No. 18149

Mary Virginia Quarles, UniServ Director, Central Wisconsin  
UniServ Council-West, 2805 Emery Drive, Wausau, Wis-  
consin 54401, appearing on behalf of the Association.  
Lindner, Honzik, Marsack, Hayman & Walsh, Attorneys at Law,  
by Eugene J. Hayman, 700 N. Water Street, Milwaukee,  
Wisconsin 53202, appearing on behalf of the District.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND  
DIRECTION OF ELECTION

The Loyal Education Association having filed a petition requesting the Wisconsin Employment Relations Commission to conduct a representation election, pursuant to the provisions of the Municipal Employment Relations Act, among certain employees of the School District of Loyal; and a hearing in the matter having been conducted on August 13, 1980 at Loyal, Wisconsin before Douglas V. Knudson, Examiner; and the Commission having considered the evidence and arguments of the parties, and being fully advised in the premises, hereby makes and issues the following

## FINDINGS OF FACT

1. That the Loyal Education Association, hereinafter referred to as the Association, is a labor organization and has its offices at Central Wisconsin UniServ Council-West, P.O. Box 1606, Wausau, Wisconsin 54401.
2. That the School District of Loyal, hereinafter referred to as the District, operates a public school system and has its offices at Loyal, Wisconsin.
3. That in the instant proceeding the Association seeks an election among certain employees of the District to determine whether said employees desire to be represented by the Association for the purposes of collective bargaining; that during the course of the hearing the parties stipulated that the employees involved are in an appropriate collective bargaining unit consisting of all regular full time and regular part-time secretarial and clerical employees, custodial-maintenance employees, aides, cooks and other auxiliary employees, excluding casual, supervisory, confidential and professional employees; and that, however, the District, contrary to the Association, contends that Mona Wehrman, Administrative Secretary, and Marliiss Collinson, Bookkeeper, are confidential employees, and additionally, that Marian Benedict, Head Cook, and Richard Beaver, Head Custodian, are supervisors.

4. That Wehrman, who is employed for eleven months a year, types tentative alternative negotiating proposals for the District's possible use during contract negotiations with the bargaining unit of teachers in the employ of the District, which is also represented by the Association; and, that, although Wehrman types responses to grievances for the District's Administrator, apparently those responses always have been presented to the Association, following the Board's approval of the responses.

5. That Collinson, who is employed for twelve months a year, prepares financial data for use by the District's negotiating committee both in costing proposals made by the Association as the bargaining representative of the teachers, and in preparing its proposals to be given to the Association; that such preparation primarily consists of collecting data relative to actual expenditures by the District; that the District's negotiating committee utilizes such financial data to project the costs of proposals; that Collinson does not make such cost projections; and, that, while Collinson covers Wehrman's duties when she is not at work, Collinson has never been required to perform any typing of either negotiating materials or grievance responses during Wehrman's absences.

6. That Benedict normally works one hour a day more than the other five cooks, during which time she prepares and evaluates menus, prepares forms for governmental agencies, and, orders food supplies; that she does not require the District Administrator's approval for the purchase of food supplies, but does require such approval for the purchase of equipment; that, during the remainder of her work day, Benedict performs duties identical to those performed by the other cooks; that Benedict can alter the daily work schedules of the other cooks, but that such alteration is fairly repetitive from year-to-year; that Benedict does not require the District Administrator's approval to call in a replacement for an absent employee; that Benedict has recommended applicants for employment when a vacancy occurred, and, that said recommendations have always been followed by the District; that there is no record of any food service employee ever having been disciplined; and that Benedict effectively directs the food service operations and employees with minimal guidance from the District Administrator, who is her supervisor.

7. That Beaver reports to the District Administrator and is responsible for directing the work of four other employees; that during the school year, Beaver works a day shift while the other employees work an evening shift; that during school vacations, the other four custodians work the day shift with Beaver, during which he directs their activities; that at all times Beaver spends the vast majority of his time in performing the same type of duties as the other custodial employees; that his responsibilities for scheduling and directing the work of the other custodial employees are those of a working foreman; that while Beaver may verbally instruct an employee to improve his work, he refers any continuing or major performance problems to the District Administrator without any recommendations concerning discipline; that Beaver's involvement, if any, in the employment process is minor; and that, while he recommends the purchase of supplies and equipment, all such purchases must be approved by the District Administrator.

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

#### CONCLUSIONS OF LAW

1. That all regular full time and regular part-time secretarial and clerical employees, custodial-maintenance employees, aides, cooks

and other auxiliary employees, excluding casual, supervisory, confidential and professional employees, constitute an appropriate bargaining unit within the meaning of Section 111.70(4)(d) of the Municipal Employment Relations Act (MERA).

2. That the position of Head Custodian is not supervisory within the meaning of Sec. 111.70(1)(o)1 of MERA; that the position of District Bookkeeper is not confidential; and, that the incumbents of said positions are municipal employees within the meaning of Sec. 111.70(1)(b) of MERA, and therefore, they are included in the bargaining unit.

3. That the position of Head Cook is supervisory within the meaning of Sec. 111.70(1)(o)1 of MERA; that the position of Administrative Secretary is confidential; that said positions are not occupied by municipal employees within the meaning of Section 111.70(1)(b) of MERA; and, that the occupants of said positions are excluded from the bargaining unit.

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 secretarial and clerical employees, custodial-maintenance employees, aides, cooks and other auxiliary employees, excluding casual, supervisory, confidential and professional employees, who were employed by the School District of Loyal on October 15, 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 desire to be represented for the purposes of collective bargaining by the Loyal Education Association on matters relating to wages, hours and conditions of employment.

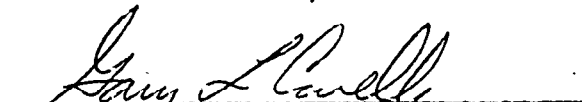
Given under our hands and seal at the  
City of Madison, Wisconsin this 15th  
day of October, 1980.

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 Association seeks a representation election of non-professional employees employed by the District. During the course of the hearing the parties agreed on positions to be included in the unit, with the exception of four positions. The non-professional employees employed by the District consist of the following, other than casual employees:

<u>Classification</u>	<u>Number of Positions</u>
Bookkeeper	1
Clerk - High School	1
Clerk - Elementary School	1
Secretary to Administrator	1
Secretary to High School Principal	1
Secretary to Elem. School Principal	1
Aide	6
Head Cook	1
Cook	5
Head Custodian	1
Head Maintenance	1
Custodian	3
Groundsman	1
Maintenance	2
Night Watchman	1

The District contends that the Secretary to the Administrator and the Bookkeeper are confidential employees, and that the Head Cook and the Head Custodian are supervisors.

Head Custodian

The record demonstrates that the Head Custodian spends the vast majority of his time performing custodial duties and that his direction of other employees is relatively routine. The Commission concludes that the Head Custodian is a lead worker position, without sufficient authority to constitute a supervisor under MERA.

Head Cook

It is clear that, while the Head Cook spends the majority of her work day performing duties similar to the other cooks, she has essentially complete control of the day-to-day decisions affecting the food service operation and the involved employees, including the ordering of supplies. Further, her recommendations in hiring have been effective. Based on those factors, we conclude that the position of Head Cook is supervisory, and therefore, excluded from the bargaining unit.

Administrative Secretary

The Commission is satisfied that the Administrative Secretary has sufficient access to confidential matters concerning labor relations to justify the exclusion of said position from the bargaining unit.

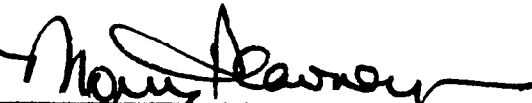
District Bookkeeper

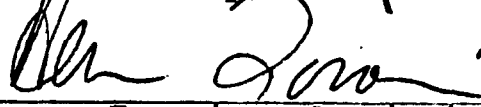
The duties of this position do not involve confidential labor relations matters, inasmuch as the information, which the Bookkeeper compiles and prepares, is public record, and further, is often furnished to the Association by the District. Additionally, the District Bookkeeper has never been called upon to prepare any confidential information, concerning labor relations matters, during the times when she is covering the duties of the Administrative Secretary. On the basis of the foregoing, the Commission concludes that the District Bookkeeper is not confidential, and therefore, said position is included in the bargaining unit.


Given under our hands and seal at the  
City of Madison, Wisconsin this 15th  
day of October, 1980.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
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Gary L. Covelli, Commissioner

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1. *Phragmites* (common reed) is a tall, grass-like plant that grows in wetlands. It is a native species and is often found in large, dense stands. It is a common sight in the marshes of the New York City area.