

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
MAPLE SUPPORT STAFF FEDERATION, WFT,	:	Case VII
AFT, AFL-CIO	:	No. 26934 ME-1923
	:	Decision No. 18469
Involving Certain Employes of	:	
SCHOOL DISTRICT OF MAPLE	:	

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Appearances:

- Mr. William Kalin, Representative, Wisconsin Federation of Teachers, 6525 West Bluemound Road, Milwaukee, Wisconsin 53704 appearing on behalf of the Petitioner.
- Mr. Edward J. Coe, Coe, Dalrymple, Heathman & Arnold, Attorneys at Law, P.O. Box 192, Rice Lake, Wisconsin 54868, appearing on behalf of the School District
- Mr. Barry Delaney, Representative, School District of Maple Support-Staff Association, Route 1, Box 111, Hayward, Wisconsin 54843, appearing on behalf of the first Intervenor
- Mr. James Ellingson, Representative, Wisconsin Council of County and Municipal Employees, AFSCME, Council 40, Route 1, Box 2, Brule, Wisconsin 54820, appearing on behalf of the second Intervenor.

FINDINGS OF FACT, CONCLUSIONS OF LAW AND DIRECTION OF ELECTION

Maple Support Staff Federation, WFT, AFT, AFL-CIO having, on October 13, 1980, filed a petition requesting the Wisconsin Employment Relations Commission to conduct an election, pursuant to the Municipal Employment Relations Act, to determine what, if any, representation certain employes in the employ of the School District of Maple desired for the purposes of collective bargaining; and hearing on said matter having been conducted at Maple, Wisconsin on December 11, 1980, before Stephen Pieroni, an Examiner of the Commission; and during the course of said hearing School District of Maple Support-Staff Association, as well as Wisconsin Council of County and Municipal Employees, AFSCME, Council 40, on the basis of their claim to represent certain employes involved, having been permitted to intervene in the instant matter; and the Commission having reviewed the evidence and arguments of the parties, being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That Maple Support Staff Federation, WFT, AFT, AFL-CIO, hereinafter referred to as the Federation, is a labor organization and has its offices at 2021 Atwood Avenue, Madison, Wisconsin.
2. That School District of Maple, hereinafter referred to as the District, operates a public school system and has its administrative offices at Maple, Wisconsin.
3. That School District of Maple Support-Staff Association, hereinafter referred to as the Association, is a labor organization

and has its offices at Route 1, Box 111, Hayward, Wisconsin.

4. That Wisconsin Council of County and Municipal Employees, AFSCME, Council 40, hereinafter referred to as AFSCME, is a labor organization and has its offices at Route 1, Box 2, Brule, Wisconsin.

5. That the instant proceeding was initiated by a petition filed by the Federation seeking an election among certain employes of the District to determine whether said employes desire to be represented for the purposes of collective bargaining; that the Federation, as well as the Association, and also AFSCME claim to represent said employes; that the District, the Federation and the Association contend that the appropriate collective bargaining unit should consist of all regular full-time and regular part-time secretaries, bookkeepers, aides, custodians, food service personnel, and weekend security personnel in the employ of the District, excluding managerial, supervisory, confidential and all other employes; that AFSCME would have the Commission establish two units involving said employes, namely one consisting of custodial employes, with the remaining employes involved in a single separate unit; and that further, the District contends that part-time weekend security personnel and part-time food service personnel are casual employes, and therefore should be excluded from the unit, and that the positions of Director of Maintenance and the Director of Food Service are managerial and/or supervisory positions, and that the position of Head Bookkeeper/Financial Secretary is a confidential position, and therefore said three positions should also be excluded from any unit found to be appropriate by the Commission.

6. That the employes claimed to be casual employes by the District include Clifford Mattson, who is employed for the purpose of providing weekend security, eight hours each on Saturdays and Sundays, fifty-two weekends per year; that the District also employs seven food service aides, claimed casual by the District, on the basis that said employes only work between three and four hours per day during the school week, for nine months of the year; that Mattson and the seven food service aides are not casually employed, but rather they are employed on a regular part-time basis.

7. That the District employs some sixteen custodians in the nine buildings operated by it; that David Antilla is the Director of Maintenance and is on duty, primarily at the High School, during the day shift; that the custodians employed at the various buildings work overlapping day and night shifts; that Antilla is assigned to supervise all custodians employed by the District, along with the Building Principals; that Antilla establishes and administers schedules and procedures for the day to day custodial care of the various buildings of the District; that he conducts meetings with custodians for the purposes of training and morale; that while Antilla spends approximately 50% of his time performing certain custodial duties, he is authorized to reprimand custodial employes, to evaluate them and to make recommendations relating thereto to managerial and administrative personnel of the District; that Antilla reviews applications for employment, participates in the interviews of custodial applicants, and has input in hiring and termination decisions; and that Antilla receives \$1.45 more per hour than the next highest paid custodian and greater fringe benefits than those received by custodial employes.

8. The District employs a food service staff consisting of the Director of Food Service, Marianne Erickson, and one baker, eight cooks and the seven regular part-time food service aides; that meals for students are prepared at two separate kitchens and are served at all nine of the District's schools; that Erickson, who reports to an Administrative Assistant-Federal Aides Coordina-

tor, works from 8 a.m. to 4:30 p.m. on school days, while the remainder of the food service staff either work between 5:30 a.m. to 2:30 a.m., or between 6:00 a.m. to 3:00 p.m.; that, while Erickson spends a considerable amount on time in food preparation, she participates in interviewing applicants for food service positions and thus has input in the hiring process; that Erickson has the primarily responsibility for the operation of the District's food service program, and in said regard, is responsible for the supervision and direction of the food service staff; that Erickson evaluates the employees, and has the authority to reprimand them, she keeps time records, and schedules the employees; that, further, Erickson plays an important role in assisting in managerial recommendations involving the food service program, in that she makes recommendations with respect to the purchase of food, equipment, the need to increase staff, as well as the price of meals to be charged to students and others; that Erickson, receives \$1.50 more per hour than the next highest paid food service employe and greater fringe benefits than those received by the remaining food service personnel.

9. That during the course of the hearing all parties agreed that Ruth Hannula, the Secretary to the District Administrator, should be excluded from the bargaining unit on the basis that she performs significant confidential duties; that however the parties are in dispute with respect to whether the Bookkeeper/Financial Secretary Donna Clemmer, is or is not a confidential employe; that the alleged "confidential" duties consist of working closely with Mr. Hytens, the Business Manager, in preparing budget figures and costing out wage and fringe benefit proposals presented in collective bargaining with the two existing collective bargaining units; that Hytens sets up the format for the budget and wage proposals, and gives same to Clemmer who manually calculates the arithmetic results; that Clemmer spends a de minimus amount of time in such tasks, which could be performed by either Hannula or Hytens.

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

#### CONCLUSIONS OF LAW

1. That all regular full-time and regular part-time secretaries, aides, custodians, food service personnel and weeked security personnel in the employ of the School District of Maple, excluding professional employes, bus drivers and mechanics, managerial, supervisory and confidential employes, constitute an appropriate collective bargaining unit within the meaning of Section 111.70(4)(d) of the Municipal Employment Relations Act.

2. That David Antilla, occupying the position of Director of Maintenance, is a supervisory employe within the meaning of Section 111.70(1)(o)1 of the Municipal Employment Relations Act, Antilla is not included in the collective bargaining unit set forth above.

3. That Marianne Erickson, occupying the position of Director of Food Service, is both a supervisory and managerial employe, within the meaning of the provisions of the Municipal Employment Relations Act, and therefore Erickson is not included in the collective bargaining unit set forth above.

4. That since Donna Clemmer, the Bookkeeper/Financial Secretary, only performs a de minimus amount of confidential duties, Clemmer is deemed to be an employe within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act and therefore is included in the collective bargaining unit set forth above.

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

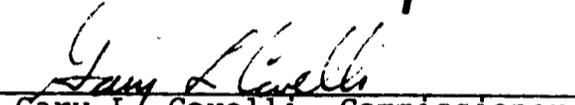
That an election by secret mail ballot be conducted under the direction of the Wisconsin Employment Relations Commission within 60 days from the date of this directive among all regular full-time and regular part-time secretaries, bookkeepers, aides, custodians, food service personnel and weekend security personnel in the employ of the School District of Maple, excluding professional employes, bus drivers and mechanics, managerial, supervisory and confidential employes, who were employed by the School District of Maple on February 24, 1981, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of such employes voting desire to be represented by Maple Support Staff Federation, WFT, AFT, AFL-CIO, or by School District of Maple Support-Staff Association, or by Wisconsin Council of County and Municipal Employees, AFSCME, Council 40, or by none of said organizations, for the purposes of collective bargaining with School District of Maple on questions of wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this 24th day of February, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
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Morris Slavney, Chairman

  
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Gary L. Covelli, Commissioner

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

There presently exists two established bargaining units of employes in the employ of the District. One consisting of professional employes, and the other consisting of bus drivers and mechanics. Herein the petitioning Federation seeks a unit consisting of the remaining otherwise eligible non-professional employes of the District. The District and the Association, along with the Federation, agree that such a unit is appropriate, while AFSCME would have the custodians in a unit separate and apart from the secretaries, bookkeepers, aides, food service personnel and weekend security personnel.

Section 111.70(4)(d)2.a. of the Municipal Employment Relations Act (MERA) urges the Commission "whenever possible" to avoid the fragmentation of bargaining units. Here, the District employes both professional and non-professional employes. The professional employes constitute an existing unit, as do the bus drivers and mechanics. The remaining non-professional employes have not as yet selected a collective bargaining representative, nor have they had an opportunity to determine whether they desire such a representative. AFSCME would have the Commission conclude that the custodians should, to the exclusion of the other employes, constitute a single appropriate unit. It is true that in some instances the Commission has established units consisting of only such employes. Such determinations may have result by agreement of all parties involved, or perhaps where a question of representation arose separately among such employes. Two of the organizations desiring to be placed on the ballot, as well as the District, would include all the unorganized non-professional employes in a single unit. Because of the size of the work force involved, and under the other circumstances present herein, the Commission, as it has done in numerous cases, concludes that the custodial employes should not constitute a unit separate and apart from the other employes involved in this proceeding. 1/

Issues also arose with regard of whether certain employes were casual employes, and whether others were supervisory, managerial or confidential. We deem that the Findings of Fact succinctly reflect the issues and facts involved, and that our Conclusions of Law sets forth our resolution of said issues, and that no further comments are necessary with respect to such issues.

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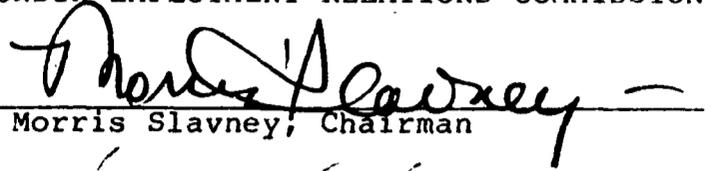
1/ See Randall Consolidated School District No. 1, (18291) 12/80; School District of Loyal, (18149) 10/80; Wisconsin Heights School District (17182) 8/79; Gibraltar Bd. of Education (11339) 10/72.

The parties desire the Commission to conduct the election directed herein by mail ballot. Therefore it is necessary that the District, as soon as possible, furnish the Commission with the names and addresses of the employes presently employed in the bargaining unit involved, and at the same time furnish each of the employe organizations with a copy of such list.

Dated at Madison, Wisconsin this 24th day of February, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Gary L. Covelli, Commissioner