

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Joint Petition of :

APPLETON AREA SCHOOL DISTRICT and :
APPLETON EDUCATION ASSOCIATION :

Case XXIX
No. 25780 ME-1802
Decision No. 18567

Involving Certain Employees of :

APPLETON AREA SCHOOL DISTRICT :

Appearances:

Mr. Kenneth Johnston, Director of Administrative Services,
Appleton Area School District, 120 E. Harris Street,
Appleton, Wisconsin, appearing on behalf of the District.
Mr. Henry B. Krokosky, Jr., Executive Director, Winnebago Land
Educational Staff Council, 550 E. Shady Lane, Neenah,
Wisconsin, appearing on behalf of the Association.

FINDINGS OF FACT, CONCLUSIONS OF LAW
AND ORDER CLARIFYING BARGAINING UNIT

Appleton Area School District and Appleton Education Association having on February 21, 1980 jointly filed a petition requesting the Wisconsin Employment Relations Commission to clarify a collective bargaining unit involving certain employees of the District; and hearing in the matter having been conducted at Appleton, Wisconsin, on April 4, 1980, Examiner James D. Lynch being present; and briefs of the parties having been filed by June 6, 1980; and the Commission, having reviewed the record and the briefs of the parties and being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That Appleton Area School District, hereinafter referred to as the District, is a municipal employer which maintains and operates a K through 12 school district in the Appleton, Wisconsin area; and that it has its principal offices at Appleton, Wisconsin.

2. That Appleton Education Association, hereinafter referred to as the Association, is a labor organization representing municipal employees for the purposes of collective bargaining; and that the Association has its offices at Appleton, Wisconsin.

3. That, following an election conducted by it, the Wisconsin Employment Relations Commission on June 15, 1965 certified the Association as the exclusive collective bargaining representative of "all regular full-time and regular part-time certified teaching personnel in the employ of the District, including guidance counselors, traveling teachers, elementary consultants, librarians, psychologists, attendance officer, audio-visual coordinator, teaching vice-principals, but excluding principals, elementary and secondary coordinators, Director of Business Affairs, social workers, nurses, dental hygienists, senior high school vice-principal, superintendent and administrators"; that since said certification the parties have voluntarily altered the description of the aforementioned collective bargaining unit, and that in said regard the 1978-1980 collective bargaining agreement existing between the parties contained a provision describing the collective bargaining unit as consisting of "all professional staff members who do not have evaluative responsibility over other professional staff members".

4. That the instant proceeding was initiated by the parties seeking a Commission determination as to whether professional employees occupying the positions of Art Coordinator, Speech and Language

Disabilities Coordinator, Health Services Coordinator, and Consultant-Special Education/Vocational, should or should not be included in the unit of professional staff employees; and that in said regard the District, contrary to the Association, contends that the occupants of said positions should be excluded from the unit on the basis that the Coordinators are supervisors, and that the Consultant performs managerial functions.

5. That the position of Art Coordinator is occupied by Matt Kahnke; that although Kahnke carries a 40% teaching load, he is primarily responsible for development of the District's art curriculum and program, taught by seven teachers in the employ of the District; that the position of Speech and Language Disabilities Coordinator is occupied by Grace School, who is primarily responsible for the program relating to such disabilities, and that in said regard is responsible for the activities of some twelve speech and language technicians in the employ of the District; that Betty Singler, who presently occupies the position of Health Services Coordinator, is responsible for the health services program of the District, and in that regard is in charge of four Nurses and one Dental Hygienist; that all the Coordinators have interviewed and hired individuals for their respective programs; that they assign duties and direct employees in the performance of same; that they evaluate employees, and have the authority to adjust grievances and to impose discipline; and that they participate in determining the budgets for their various programs.

6. That Ken Kilgore presently occupies the position of Consultant-Special Education/Vocational, which was established in the 1977-1978 school year, and which position is federally funded; that Kilgore is authorized to expend only those funds and for only those purposes set forth in a budget prepared by representatives of the District other than himself; that Kilgore works with teachers, students, parents and community agencies with respect to his program area; that a majority of his time is spent with teachers to acquaint them with new methods and approaches to be utilized with students; that he also has direct contacts with students by way of interviews with them in evaluating their interests and needs; that the position is occupied by a professional employee who shares a community of interest with the District's professional staff; and that Kilgore, in the performance of his duties, neither exercises any managerial or supervisory responsibilities.

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

CONCLUSIONS OF LAW

1. That the individuals occupying the positions of Art Coordinator, Speech and Language Disabilities Coordinator and Health Services Coordinator, in the employ of the Appleton Area School District, are "supervisory employees" within the meaning of Sec. 111.70(1)(o)1 of the Municipal Employment Relations Act.

2. That the position of Consultant-Special Education/Vocational, occupied by Ken Kilgore, in the employ of the Appleton Area School District, is a "municipal employee" position within the meaning of Sec. 111.70(1)(b) 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


ORDER CLARIFYING BARGAINING UNIT

That the positions of Art Coordinator, Speech and Language Disabilities Coordinator and Health Services Coordinator are excluded from, and that the position of Consultant-Special

Education/Vocational is included in the collective bargaining unit of professional staff members in the employ of the Appleton Area School District, which unit is presently represented for the purposes of collective bargaining by the Appleton Education Association.

Given under our hands and seal at the City of Madison, Wisconsin, this 31st day of March, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By 
Morris Slavney, Chairman


Gary L. Covelli, Commissioner

MEMORANDUM ACCOMPANYING FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER CLARIFYING BARGAINING UNIT

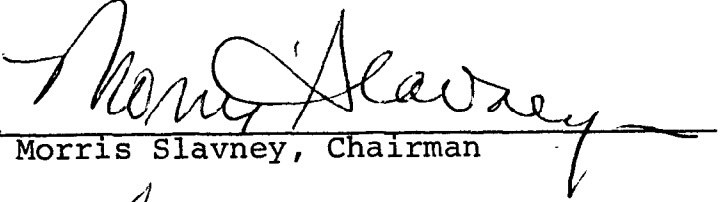
The record establishes that the occupants of the three Coordinator positions on issue herein are assigned and perform responsibilities and duties which meet the criteria established by the Commission in determining whether municipal employees are "supervisors" within the meaning of Sec. 111.70(1)(o)1 of the Municipal Employment Relations Act. 1/ Therefore the positions cannot be included in the collective bargaining unit involved herein.

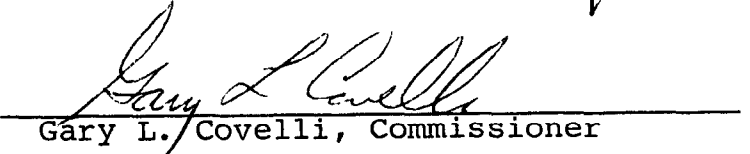
On the other hand, the evidence does not establish that the occupant of the Consultant position has such responsibilities and duties which would constitute that position as a managerial position.2/ There is no claim that the position is that of a supervisor. Therefore, the Consultant is properly included in said unit.

Dated at Madison, Wisconsin, this 31st day of March, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By


Morris Slavney, Chairman


Gary L. Covelli, Commissioner

1/ Milwaukee Area VTAE (16507) 6/79

2/ Ibid