

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Separate
Petitions of

OFFICE AND PROFESSIONAL EMPLOYEES
INTERNATIONAL UNION, LOCAL 95, AFL-CIO

and

PORTAGE COUNTY

Involving Certain Employees of

PORTAGE COUNTY
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Case XXXVII
No. 26531 ME-1872

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Case XXXVIII
No. 26580 ME-1877

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Case XXXIX
No. 26581 ME-1878

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Decision No. 18792

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Appearances:

Joseph E. Finley, Attorney at Law, 57 Brookstone Drive, Princeton,
New Jersey 08540, on behalf of Office and Professional
Employees International Union, Local 95, AFL-CIO.

Mulcahy & Wherry, S.C., Attorneys at Law, by Roland J. Rutlin,
408 Third Street, Wausau, Wisconsin 54401, on behalf of
Portage County.

Lawton & Cates, Attorneys at Law, by Bruce M. Davey, 110 East
Main Street, Madison, Wisconsin 53703, on behalf of Portage
County Courthouse and County Home Employees, Local 348,
AFSCME, AFL-CIO.

Goldberg, Previant, Uelman, Gratz, Miller, Levy & Brueggeman,
S.C., Attorneys at Law, by Marianne Goldstein Robbins, 788
North Jefferson Street, P.O. Box 92099, Milwaukee, Wisconsin
53202, on behalf of General Drivers and Helpers Union, Local
354, International Brotherhood of Teamsters.

FINDINGS OF FACT, CONCLUSIONS OF LAW,
ORDER AND DIRECTION OF ELECTION

Office and Professional Employees International Union Local 95,
AFL-CIO and Portage County having filed separate petitions requesting
the Wisconsin Employment Relations Commission to conduct separate
elections among certain employees in the employ of Portage County, em-
ployed in three separate alleged appropriate collective bargaining
units; and said petitions having been consolidated for the purposes
of hearing; and hearing having been held in the matter on October 28
and 29, 1980, before James D. Lynch, a member of the Commission's
staff, during the course of which Portage County Courthouse and County
Home Employees Local 348, AFSCME, AFL-CIO, as well as General Drivers
and Helpers Union Local 354, International Brotherhood of Teamsters,
were permitted to intervene in the matter; and briefs in the matter
having been received by December 22, 1980; and the Commission, having
considered the record and arguments of Counsel and being fully advised
in the premises, makes and issues the following

FINDINGS OF FACT

1. That Office and Professional Employees International Union
Local 95, AFL-CIO, hereinafter referred to as OPEIU, is a labor organi-
zation representing municipal employees for the purposes of collective
bargaining, and has its offices at 111 Jackson Street, Wisconsin Rapids,
Wisconsin 54494.

2. That Portage County, hereinafter referred to as the County,
is a county unit of government operating various governmental functions,
and in said regard employs municipal employees in the performance there-
of; and that the County has its principal offices at Stevens Point,
Wisconsin 54481.

3. That Portage County Courthouse and County Home Employees Local 348, AFSCME, AFL-CIO, hereinafter referred to as AFSCME, is a labor organization representing municipal employees for the purposes of collective bargaining, and has its offices at 1908 Vermont Avenue, Stevens Point, Wisconsin 54481.

4. That General Drivers and Helpers Union Local 354, International Brotherhood of Teamsters, hereinafter referred to as Teamsters, is a labor organization representing municipal employees for the purposes of collective bargaining, and has its offices at P.O. Box 163, Stevens Point, Wisconsin 54481.

5. That prior to October 16, 1979 the County maintained, among the various departments operated by it, a Department of Social Services, a Department of Human Services, and a Department of Health; that following an election conducted by it, the Wisconsin Employment Relations Commission, hereinafter referred to as the Commission, on September 26, 1963, certified AFSCME as the exclusive collective bargaining representative of "all employees of the County, excluding elected officials, supervisory personnel and law enforcement personnel"; that at the time "part time" employees were included in said unit; that following said certification the County and AFSCME have entered into various collective bargaining agreements covering the wages, hours and working conditions of employees in said unit, and have also voluntarily modified the scope of said unit, specifically, among other things, excluding "part-time" employees therefrom in 1974; and that the parties described the bargaining unit in their collective bargaining agreement, which expired on December 31, 1980, as follows:

A. The County recognizes the Union as the sole and exclusive bargaining agent for all regular full-time employees of the County Courthouse, Gilfrey Center and the County Home for the purpose of engaging in conferences and negotiations establishing [sic] wages, hours and conditions of employment. Expressly excluded from the bargaining unit are elected officials, County Home Administrator, supervisor of nurses, public health nurse, public health nurse assistant, registered nurses, licensed practical nurses, food service supervisor, social worker, director of office services, certified occupational therapist assistant, purchasing agent, maintenance engineers, agricultural agent, home economist agent, youth agent, summer employees, seasonal employees, temporary employees, part-time employees, all supervisory, managerial, confidential and professional employees and employees included in other bargaining units in the County.

B. "Courthouse" employees when used in this Agreement shall include employees working in the Courthouse, Courthouse Annexes, and the Gilfrey Center.

6. That the classifications of the non-professional employees of the County covered by the collective bargaining agreement between AFSCME and the County were as follows:

Account Clerk	Keypunch Operator
Administrative Assistant	Laundress
Administrative Secretary	Legal Secretary
Activity Aide	Maintenance Helper III, II, I
Bookkeeper-Accountant	Nurses Aide
Cook II, I	Payroll Accountant
Cook Matron	Register in Probate
Custodian	Tax Lister
Deputy Department Head	Typist II, I
Food Service	Typist
Housekeeper	

7. That following an election conducted by it, the Commission on January 5, 1973, certified Teamsters as the exclusive collective bargaining representative of all regular employees of the Department of Social Services, including professional social workers, as well as certain non-professional employees, but excluding the Director and supervisors; that until the spring of 1979 said department and its employees were housed in a facility separate and apart from other departments of the County involved herein, specifically in the City-County Building; that the most recent collective bargaining agreement between the County and Teamsters, covering the wages, hours and working conditions of the employees in said unit, expired on December 31, 1980; and that the classifications of employees included in the coverage of said collective bargaining agreement were the professional positions of Social Workers V, IV, III, II, and I, as well as the following non-professional positions:

Income Maintenance Worker (Lead), Income Maintenance Worker, Income Maintenance Assistant, Homemaker III, II and I, Social Services Aide III, II and I, Terminal Operator II and I, Typist III, II, and I, Clerk III, II, and I.

8. That on February 28, 1979 OPEIU filed a petition requesting the Commission to conduct an election among the regular full-time and regular part-time (16 hours per week or more) professional employees of the County employed in its Department of Human Services, to determine whether said employees desired to be represented for the purposes of collective bargaining by OPEIU; that, prior to hearing on said petition, the County, on March 23, 1979, filed a petition requesting the Commission to clarify existing collective bargaining units, by establishing two separate bargaining units, namely (1) all regular full-time and regular part-time professional employees of the Department of Social Services, and (2) all regular full-time and regular part-time clerical and non-professional employees employed in the Department of Social Services and the Department of Human Services; that the employees desired to be included in said proposed units were then in units represented by either Teamsters, or OPEIU, or AFSCME; that the petitions of the County and OPEIU were consolidated for the purposes of hearing, but that hearing thereon was never conducted, as a result of a stipulation filed by the County and OPEIU on May 25, 1979, and at the request of the County the Commission dismissed its petition; that, pursuant to said stipulation, the Commission conducted an election among the professionals employed in the Department of Human Services, previously housed in space rented by the County at St. Michael's Hospital, Stevens Point; and that following said election, and on June 28, 1979, the Commission certified OPEIU as the exclusive collective bargaining representative of "all regular full-time and regular part-time (16 hours per week or more) employees of the Department of Human Services, excluding supervisory, confidential, clerical, limited term, federal project employees and maintenance employees"; that the initial collective bargaining agreement between OPEIU and the County expired December 31, 1980; and that the following classifications of employees were included in said collective bargaining unit:

Professional Employees

Clinical Psychologist	Chief Psychiatric-Social Worker
Social Worker	Psychiatric-Social Worker
Registered Nurse-	Life Skills Consultant
Community Support	Occupational Therapist
Program	Community Education Coordinator
Developmental Disabilities Program Assistant	

9. That the construction on the Ruth Gilfrey Resources Center Building was completed in April, 1979, and thereafter and through June, 1979 the County moved its employees employed in the Social Services, Human Services, and Health Departments into said new facility; that on October 15, 1979 the County, by action of its Board of Supervisors, pursuant to Section 46.23, Wis. Stats., and after some two years of study by a committee consisting of the heads of said three departments, together with the chairpersons of the three County Board committees, which governed the affairs of said departments, merged said three departments

into a single Department of Community Human Services, housed in the Gilfrey Center Building; that prior to the consolidation of said three departments on November 1, 1979, each of them were subject to the control of three separate Boards, established by the County Board; and that upon the creation of the new department said three boards ceased to exist, and the newly created department is governed by a single Community Human Services Board.

10. That the general administration of the Community Human Services Department consists of a Director, an Associate Director, a Program Management and Support Coordinator, and an Administrative Assistant; that the Department consists of the following divisions:

- (a) Division of Community Health Services (Formerly the Health Department)
- (b) Division of Mental Health, Development Disabilities, and Alcohol and Drug Abuse (Formerly the Human Services Department)
- (c) Division of Social Services (Formerly the Social Service Department)
- (d) Division of Operations
- (e) Education and Training Unit

11. That at all times material herein employees, formerly employed in the Department of Health, and presently employed in the Division of Community Health Services, have not been represented by any labor organization for the purposes of collective bargaining on wages, hours and conditions of employment.

12. That on July 17, 1980 OPEIU filed a petition with the Commission 1/ requesting that the Commission conduct an election among employees employed in the Division of Community Health Services to determine whether said employees in said claimed appropriate collective bargaining unit desired to be represented by OPEIU for the purposes of collective bargaining; and that said employees were not presently represented for said purpose.

13. That on July 28, 1980 the County filed a petition with the Commission, 2/ identified as a "Petition for Unit Clarification", wherein the County contended that the following employees constituted an appropriate collective bargaining unit, and the County indicated that Teamsters and AFSCME presently represented certain classifications included therein:

all regular full-time and regular part-time clerical and non-professional employees of the County Courthouse, County Home and Ruth Gilfrey Human Services Center, excluding all confidential, supervisory, managerial, and professional employees.

14. That also on June 28, 1980 the County filed an additional petition, 3/ seeking to "clarify" the existing professional employee bargaining units, presently represented separately by OPEIU and Teamsters, into one unit consisting of:

all regular full-time and regular part-time professional employees of the Community Health Services Department, excluding all confidential, supervisory, managerial, clerical and non-professional employees.

1/ Case XXXVII.

2/ Case XXXVIII.

3/ Case XXXIX.

15. That at the time of the hearing herein the County had under consideration a reclassification study, recommending certain changes in classifications of certain positions in the employ of the County; that since the date of the hearing the County has submitted data to the Commission and the parties hereto, reflecting the changes in classifications which were adopted by the County with respect to professional and non-professional employees in the employ of the Department of Community Human Services; that the following reflects the changes, if any, made in the professional employee classifications, as well as setting forth the collective bargaining unit in which such classifications have been, and are presently, included:

<u>New Classifications</u>	<u>Old Classification</u>	<u>Presently in Unit Represented by</u>
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Division of Community Health Services

Human Services Specialist I- Environmental Health Sanitarian	Environmental Health Sanitarian	In no Unit
Human Services Specialist I- Medical Technologist	Laboratory Supervisor	In No Unit
Dental Hygienist	Dental Hygienist	In No Unit
Human Services Specialist I- WIC Project Director/ Nutritionist	WIC Project Director/ Nutritionist	In No Unit
Human Services Specialist I- Community Health Nurse	Community Health Nurse (6 Full-time & 2 Part-time)	In No Unit
Human Services Specialist I- Community Health Nurse	Home Health Nurse (2 Full-time & 1 Part-time)	In No Unit

Division of Mental Health, Development
Disabilities and Alcohol and Drug Abuse

Mental Health Clinician 2	Psychologist (3 positions)	OPEIU
Human Services Specialist I- Occupational Therapist	Occupational Therapist	OPEIU
Mental Health Clinician I	Chief Psychiatric Social Worker	OPEIU
Mental Health Clinician I	Psychiatric Social Worker	OPEIU
Human Services Specialist I- Social Worker	Social Worker (3 positions)	OPEIU
Human Services Specialist I- Social Worker	Social Worker II (2 positions)	OPEIU
Human Services Specialist I- Social Worker	Life Skills Consultant	OPEIU
Human Services Specialist I- Community Health Nurse	Psychiatric Nurse (2 positions)	OPEIU

Division of Social Services

Social Worker 3	Social Worker V	Teamsters
Human Services Specialist 2- Social Worker	Social Worker IV (2 positions)	Teamsters
Human Services Specialist I- Social Worker	Social Worker II (7 positions)	Teamsters
Human Services Specialist I- Social Worker	Social Worker I	Teamsters

Human Services Specialist I- Alternate Care Coordinator	Child Foster Care Coordinator	Teamsters
Human Services Specialist I- Alternate Care Coordinator	Adult Foster Home Coordinator	Teamsters

Education and Training

Human Services Specialist I- Program Coordinator	Staff Development/Volunteer Services Coordinator	Teamsters
Human Services Specialist I- Program Coordinator	Community Education Coordinator	OPEIU

16. That the following tabulation reflects changes, if any, made in non-professional classifications, since the hearing herein, involving positions employed in the Department of Human Services, as well as the collective bargaining representative of said position:

<u>New Classification</u>	<u>Old Classification</u>	<u>Presently in Unit Represented By</u>
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Health Division

Human Services Assistant	Community Health Nursing Assistant (2 Part-time positions)	In No Unit
Home Health Aide	Home Health Aide 2 Part-time positions)	In No Unit

Human Services Division

Human Services Assistant	Administrative Secretary	AFSCME
Human Services Assistant	Program Assistant	OPEIU

Social Services Division

Homemaker	Homemaker III	Teamsters
Homemaker	Homemaker II (2 positions)	Teamsters
Homemaker	Homemaker I	Teamsters
Human Services Assistant	Social Services Aide I (2 positions)	Teamsters
Income Maintenance Worker	Income Maintenance Worker (2 positions)	Teamsters
Income Maintenance Worker	Income Maintenance Assistant (2 positions)	Teamsters
Income Maintenance Worker	Terminal Operator	Teamsters

17. That clerical and related full-time employees, occupying the following classifications, are employed in the Community Human Services Department, and such employees are presently in the collective bargaining units represented by the organization indicated, unless otherwise noted:

<u>Classification</u>	<u>Presently In Unit Represented By</u>
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Health Division

Bookkeeper/Accountant	AFSCME
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Human Services Division

Typist II AFSCME

Social Services Division

Terminal Operator Teamsters

Operations Division

Administrative Secretary AFSCME

Account Clerk AFSCME

Clerk II Teamsters

Clerk/Filling Clerk AFSCME

Clerk-Typist II AFSCME

Typist II AFSCME

Typist I	(1 position)	AFSCME
	(4 positions)	Teamsters

18. That clerical and related full-time employees, occupying classifications identical to those employees employed in the Community Human Services Department, are employed by the County in departments other than in the latter department, all of whom are in the unit presently represented by AFSCME, as follows: 4/

<u>Classification</u>	<u>Department Employed</u>
Administrative Secretary	County Clerk, Courts, District Attorney, Housing Authority, Land Description, Parks, Planning, Sheriff, UW Extension, and Veteran's Service
Bookkeeper/Accountant	County Home
Clerk-Typist II	UW Extension
Clerk-Typist I	Planning, UW Extension and Zoning
Typist II	CETA, Courts, Home, Register of Deeds, and Treasurer
Typist I	CETA, County Clerk, and Register of Deeds

19. That the County also employs on a full-time basis employees occupying the following classifications in the various "Courthouse" departments, as well as in the County Home, all of whom are included in the collective bargaining unit presently represented by AFSCME:

4/ Part-time clerical and related positions are not included in any existing collective bargaining unit.

<u>Classification 5/</u>	<u>Department Employed</u>
Activity Aide (1)	County Home
Administrative Assistant (3)	Zoning and Commission on Aging
Clerk/Receptionist (1)	County Home
Cook II (6)	County Home
Cook/Matron (1)	Sheriff
Deputy Clerk of Courts (1)	Courts
Deputy Register in Probate (1)	Courts
Deputy Register of Deeds (1)	Register of Deeds
Deputy Treasurer (1)	Treasurer
Domestic Service (7)	County Home
Food Service Helper (8)	County Home
Key Punch Operator (1)	Business Administration
Legal Secretary (3)	Courts and District Attorney
Laundress (2)	County Home
Maintenance Tech/Mechanic (1)	Sheriff
Maintenance Tech/Supervisory (2)	County Home and Maintenance
Maintenance Worker II (1)	Maintenance
Maintenance Worker I (3)	Commission on Aging, County Home, and Maintenance
Medical Records Secretary (1)	County Home
Nurses Aide (33)	County Home
Payroll Clerk (1)	Business Administration
Register in Probate (1)	Courts
Tax Lister (1)	Land Description
Typist I/Microfilmer (1)	Land Description

20. That the County also employs part-time employees in the following classifications in the departments noted, which employees are not included in any existing collective bargaining unit:

<u>Classification</u>	<u>Department Employed</u>
Activity Aide (Part-time) (4)	County Home
Cook I (Part-time) (4)	County Home
Cook/Matron (Part-time) (1)	Sheriff
Custodian (Part-time) (1)	Commission on Aging
Domestic Service (Part-time) (3)	County Home

5/ Figure in () represents number of positions.

Food Service Helper (Part-time) (4)

County Home

Nurses Aide (Part-time) (40)

County Home

21. That OPEIU contends that the clarification of bargaining units sought by the County should be dismissed and that the Commission should direct an election among the professional employees in the Division of Community Health Services to determine whether said employees desire to be represented by OPEIU for the purposes of collective bargaining.

22. That Teamsters argue that the existing units should not be unnecessarily disrupted; that the professional employees employed in each of the three divisions of the department constitute separate appropriate bargaining units; that the two professional positions in "Education and Training" be appropriately placed in one of the three professional units; and that the non-professional employees in the Department constitute an appropriate collective bargaining unit.

23. That AFSCME would have the Commission dismiss the petition of the County wherein it seeks a unit consisting of all full-time and part-time non-professional employees of the County, and that the maintenance and custodial employees of the Department should remain in the existing unit represented by AFSCME, and further, that clerical and related employees in the Department should be given the opportunity to select accretion to either the Teamster unit or the AFSCME unit.

24. That not only does the County contend that the units set forth in its petitions filed herein, as noted in paras. 13 and 14, supra, constitute appropriate collective bargaining units, but it also requests the Commission to conduct elections among the employees in said alleged appropriate units to determine what, if any, representation said employees desire for the purpose of collective bargaining.

25. That the full-time non-professional employees employed in the Department of Community Human Services perform duties either identical to (clerical and related positions) or similar to (other non-professionals) duties performed by those employees employed by the County in its Courthouse departments and in its Home.

26. That the professional employees in the Department of Community Human Services perform duties relating to the physical and mental health, as well as to the social needs, of the residents of the County; that said employees employed in the various divisions of said department possess professional skills necessary to the performance of the above noted functions, and while there exists differences in some of said professions, including employees employed in the same divisions, the occupants of said professional positions perform their duties in the furtherance of a common program relating to the physical and mental health, as well as the social needs, of the residents of the County.

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 non-professional employees in the employ of Portage County in its Courthouse, as well as in its Department of Community Human Services, and in its County Home, but excluding professional employees, licensed practical nurses, summer, seasonal, temporary and part-time employees, employees included in other bargaining units, confidential, supervisory, and managerial employees, constitute an appropriate collective bargaining unit within the meaning of Secs. 111.70(1)(e) and (4)(d)2.a. of the Municipal Employment Relations Act.

2. That all regular full-time and regular part-time professional employees in the employ of Portage County in its Department of Community Human Services, but excluding all other employees, as well as confidential, supervisory and managerial employees, constitute an appropriate collective bargaining unit within the meaning of Secs. 111.70(1)(e) and (4)(d)2.a. of the Municipal Employment Relations Act.

3. That a question of representation has arisen, within the meaning of Sec. 111.70(4)(d)1. of the Municipal Employment Relations Act, among the employees of Portage County employed in the collective bargaining unit set forth in para. 2 hereof.

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

ORDER

IT IS HEREBY ORDERED that all regular full-time non-professional employees employed by Portage County in its Department of Community Human Services, excluding confidential, supervisory and managerial employees, be and the same hereby are accreted to the existing non-professional employee collective bargaining unit presently represented by Portage County Courthouse and County Home Employees Local 348, AFSCME, AFL-CIO, and further, that the description of said bargaining unit is hereby amended to read as follows:

All regular full-time non-professional employees in the employ of Portage County in its Courthouse, County Home, and Department of Community Human Services, but excluding professional employees, licensed practical nurses, summer, seasonal, temporary and part-time employees, employees included in other bargaining units, confidential, supervisory, and managerial employees.

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 sixty (60) days from 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 Portage County in its Department of Community Human Services, but excluding all other employees, as well as confidential, supervisory and managerial employees,

who were in the employ of Portage County as of the date of this Directive, 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 employees voting desire to be represented by Office and Professional Employees International Union Local 95, AFL-CIO, or by General Drivers and Helpers Union Local 354, or by neither of said organizations, for the purposes of collective bargaining with Portage County on wages, hours and conditions of employment.

Given under our hands and seal at the City of Madison, Wisconsin this 29th day of June, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Gary L. Covelli
Gary L. Covelli, Chairman

Morris Slavney
Morris Slavney, Commissioner

Herwan Torosian
Herwan Torosian, Commissioner

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

The instant proceedings, consolidated for the purposes of hearing, were initiated as a result of a petition for an election, filed by OPEIU, and two petitions filed by the County, wherein it requested the Commission to clarify two existing collective bargaining units of County employees. The petition filed by OPEIU involved professional employees included in one of the petitions filed by the County.

The facts material to the disposition of the issues raised herein are set forth in the Findings of Fact, as are the positions of the various labor organizations having an interest in the matter, and, of course the position of the County. All counsel filed briefs with the Commission, and therein have ably set forth arguments in support of their positions.

Prior to the establishment of the Department of Community Human Services the employees involved in the instant proceedings were employed in three separate departments, located at separate locations. The professional employees included individuals who were engaged in the profession of "social worker", as well as those engaged in professional health care, and in the coordination of such services. All the professionals employed in the old Human Services Department, as well as one non-professional position employed therein, were in a single collective bargaining unit represented by OPEIU. Teamsters represented, in a separate unit, professional and non-professional positions employed in the old Department of Social Services, while the employees in the old Health Department were not included in any bargaining unit, and therefore, were not represented for the purposes of collective bargaining.

While the County filed two separate petitions requesting clarification of two separate bargaining units involving (1) professional employees in the Department of Community Human Services, and (2) non-professional employees employed in that Department, any decision of the Commission granting the clarification desired by the County in the professional unit would require the conduct of a representation election, simply for the reason that a majority of said professional employees are presently in two separate collective bargaining units, and are presently represented by two labor organizations, namely OPEIU and Teamsters. With respect to said professional unit, contrary to the argument of OPEIU, should the Commission consolidate the professional employees employed in the various Divisions of the Department into one single unit, such consolidation, in our view, creates a question of representation. After such a determination, to require any party to file a petition requesting an election in the unit found to be appropriate would constitute unwarranted further delay of the resolution of any question of representation.

We are cognizant that the professionals employed in the three new divisions do not interchange among divisions, are under separate divisional supervision, and exercise their professional skills in different human care services. They are nevertheless all engaged in providing same to the residents of the County. We see no perceivable distinction among the professionals employed in said three separate divisions than there exists among professionals employed by a school district, in which setting we have consistently included professionals, such as nurses, librarians, counselors, and psychologists, in collective bargaining units consisting, for the most part, of classroom teachers, on the basis that all of said professionals perform functions and duties relating to the educational program of the district involved. 6/ The mere fact that the professional employees herein are

6/ Amery Jt. School District, (15793-A) 4/78.

under separate divisional supervision and there is no divisional interchange is not a basis for separate divisional units. The Commission has never, in a school district setting, established separate units consisting of teachers employed in separate schools, although they are separately supervised, and, there generally is no interchange of teachers between schools. We conclude that the commonality of the professional education, training and skills characteristic of the professionals involved herein, as well as the programs in which they are involved, and apparently as recognized by the State Legislature in enacting Sec. 46.23, Wis. Stats., and by the County in establishing the Department of Community Human Services, in accordance with such statutory provision, creates a community of interest among said professional employees which overrides other factors, including bargaining history, considered by the Commission in establishing a single professional bargaining unit, especially in view of the statutory admonition, set forth in Sec. 111.70(4)(d)2.a. of the Municipal Employment Relations Act, to avoid the fragmentation of bargaining units.

As a result we have directed an election among said professional employees, wherein they will be given the opportunity to select either OPEIU, or Teamsters, or neither of such organizations, as their collective bargaining representative.

As noted in the Findings of Fact, non-professional employees now employed in the new Department, were previously included in three separate collective bargaining units, represented by either OPEIU, Teamsters, or by AFSCME. Of the number of non-professional full-time employees now employed in the new Department, one was in the unit represented by OPEIU, approximately seventeen were in the unit represented by Teamsters, and nine in the unit represented by AFSCME. The number of positions represented by OPEIU and Teamsters were the only non-professional positions represented by said two labor organizations. On the other hand, in addition to the eight positions in the new Department, AFSCME also represents approximately one hundred and five non-professional employees in "its" non-professional unit, and twenty-three of said positions occupy classifications identical to classifications employed in the Department of Community Human Services. Under such circumstances, and absence any evidence, or any demonstrative showing by the County, that any of the non professional employees desire an opportunity for a new election, and in order to avoid proliferation of bargaining units, we have accreted the full-time non-professional employees in the Department to the unit presently represented by AFSCME for the reason that the latter organization represents a unit presently consisting of a majority of the full-time non-professionals in the employ of the County, who perform similar or related work.

The County, contrary to AFSCME, desire to include regular part-time non-professional employees in the latter unit. Normally, the Commission will include such employees in bargaining units. However, for some reason not established in the record, the County and AFSCME voluntarily excluded part-time employees from the unit in 1974, even though non-professional employees were included in the unit at the time of certification. The County's request would cover some sixty-five part-time employees. Because the County and AFSCME had previously agreed to exclude such employees from the unit involved, and also because AFSCME does not seek to represent part-time employees, 7/ we are

7/ The Commission will not expand a voluntarily recognized unit where one of the parties opposes the expansion without an election, and there have not been any intervening events which would materially affect the status of the employees involved. (Germantown School District (17494) 12/79).

not including them in the non-professional bargaining unit involved herein.

Dated at Madison, Wisconsin this 29th day of June, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Gary L. Coyelli
Gary L. Coyelli, Chairman

Morris Slavney
Morris Slavney, Commissioner

Harman Torosian
Harman Torosian, Commissioner