

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of	:	
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HUMAN SERVICES BOARD OF	:	
FOREST, ONEIDA and VILAS	:	Case 1
COUNTIES	:	No. 31484 ME-2209
	:	Decision No. 20728-A
Involving Certain Employes of	:	
	:	
NORTHWOODS GUIDANCE CENTER-	:	
HUMAN SERVICES CENTER	:	
	:	

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Appearances:

Mulcahy & Wherry, S.C., Attorneys at Law, by Mr. Dean R. Dietrich,  
 408 Third Street, Wausau, Wisconsin 54401, and Mr. Donald Cannady,  
 Executive Director, appearing on behalf of the Human Services Board of  
 Forest, Oneida and Vilas Counties.

Wisconsin Council of County and Municipal Employees #40, AFSCME, AFL-CIO,  
 by Ms. Georgia C. Johnson, Staff Representative, 2041 Ninth Street,  
 P.O. Box 692, Marinette, Wisconsin 54143, appearing on behalf of  
 AFSCME, Local 79-A.

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

The Human Services Board of Forest, Oneida and Vilas Counties having, on March 20, 1984, filed a petition requesting the Wisconsin Employment Relations Commission to clarify the existing bargaining unit consisting of employes of the Northwoods Guidance Center - Human Services Center by determining whether the position of Developmental Disabilities Coordinator should be excluded from said unit which is represented by Wisconsin Council 40, AFSCME, AFL-CIO, Local 79-A; and hearing in the matter having been held in Rhinelander, Wisconsin on May 22, 1984, before Examiner David E. Shaw of the Commission's staff; and the briefing schedule having been completed by September 28, 1984; and the Commission having considered the evidence and the arguments of the parties and being fully advised in the premises, makes and issues the following Findings of Fact, Conclusion of Law and Order Clarifying Bargaining Unit.

FINDINGS OF FACT

1. That the Human Services Board of Forest, Oneida and Vilas Counties, hereinafter referred to as the Board, is a municipal employer created pursuant to Sec. 51.42, Stats., to provide services in the areas of mental health, alcohol and drug abuse and developmental disability to the citizens of those three counties, and has its offices located at P.O. Box 897, Rhinelander, Wisconsin 54501-2897.
2. That the Board is composed of fourteen members appointed from and by the county boards of Forest, Oneida and Vilas counties; that the Board normally meets as the full Board once per month; that in providing the aforementioned services the Board directly provides some of those services and contracts out for others; and that the Board maintains and operates three facilities of its own: (1) Koinonia - providing a residential treatment center for alcohol and drug abusers and a non-medical detoxification program; (2) Northwoods Guidance Center - prevention and out-patient mental health services; and (3) Human Services Center - the management center of the Board's various facilities and programs, and also administers and delivers a number of community programs in the areas of mental health, alcohol and drug abuse and developmental disabilities.
3. That the Wisconsin Council of County and Municipal Employees #40, AFSCME, AFL-CIO, hereinafter referred to as the Union, is a labor organization and has its offices located at 2041 Ninth Street, P.O. Box 692, Marinette, Wisconsin 54143; and that since July 20, 1983, the Union has been the certified exclusive collective bargaining representative of the employes in a bargaining unit consisting of all regular full-time and regular part-time employes, including professional employes, of the Human Services Center, Northwoods Guidance Center and Koinonia, excluding managerial, supervisory and confidential employes. 1/

4. That on March 20, 1984, the Board filed the instant petition requesting that the Commission clarify the bargaining unit set forth in Finding of Fact 3, claiming, contrary to the Union, that the position of Developmental Disabilities Coordinator, hereinafter the DD Coordinator, should be excluded from said unit on the basis that it is supervisory and managerial.

5. That Helen Nelson held the position of DD Coordinator at the Board's Human Services Center until she retired and was replaced on November 1, 1983 by the incumbent in the position, Richard Mueller; and that prior to becoming the DD Coordinator, Mueller was employed by the Board as the Developmental Disabilities Service Specialist, hereinafter the DD Services Specialist.

6. That the Board categorizes the DD Coordinator on the same level with its Chemical Dependency Coordinator, hereinafter the CD Coordinator, in terms of its organizational structure; that the Board and the Union agreed prior to the representation election to exclude the CD Coordinator position from the bargaining unit due to the supervisory nature of that position; that the CD Coordinator position is not presently included in the existing bargaining unit; that both the DD Coordinator and the CD Coordinator report directly to the Executive Director for the Board, Donald Cannady; that the starting qualifications for both the DD Coordinator position and the CD Coordinator position require an advanced degree in a field related to human services and a minimum of three years of administrative experience, although program planning or experience in a related field may also be considered for the DD Coordinator position; and that the starting pay for the DD Coordinator position, as well as the "Potential Maximum Salary after 6 months", is the same as that for the CD Coordinator position, but is less than that for the Psychologist/Therapist and Social Worker/Therapist positions included in the bargaining unit.

7. That the job description for the DD Coordinator was revised in November of 1983 and lists the following as the position's responsibilities:

- I. Directly Responsible to the Executive Director.
  - A. The fulfillment of duties as specified.
  - B. The fulfillment of duties as assigned from time to time.
- II. Coordination of Services
  - A. Identification of clients' services needs.
    1. Assess service needs of developmentally disabled persons and their families in the tri-county area.
    2. Maintain system of clients' needs assessment.
    3. Maintain system of communicating client needs to providers of services.
    4. Coordinate screening committee in order to recommend appropriate program schedule.
    5. Work with developmentally disabled persons, families and other agencies to actualize best possible use of community resources.
    6. Determine and certify eligibility of client's entry into board-contracted or board-operated services.
  - B. Establishment of appropriate service goals on the basis of 16 elements of service mandated for developmental disabilities.
    1. Advocate and promote the coordination of services in the tri-county area.

2. Provide appropriate services in response to needs.
3. Provide for update of service goals and revision of intervention plans.
4. Evaluate adequacy of present services to meet the needs of the developmentally disabled in Forest, Oneida and Vilas Counties.
5. Work toward the development of new services as needed or the expansion and improvement of current services.
  - a. Enlist the assistance of other agencies, individuals and community groups relevant to such development.
  - b. Coordinate such conferences, consultations and arrangements as are necessary for this purpose.
  - c. Write such proposals or applications for grants which may be available.
6. Assist in publicizing services available.

C. Maintenance of Records

1. Development of appropriate forms for record keeping.
2. Maintain current individual file notes.
3. Assure validity and reliability of all reporting.
4. Achieve client billing without violation of confidentiality.
5. Maintain confidentiality in all service provisions and processing of client data.
6. Maintain list of residential care and other facilities for the developmentally disabled including data on kinds, range and quality of services as well as cost of such services.
7. Monitor, through regular visits, clients in extended care facilities in order to assess the potential for less restrictive and/or community placement.

III. Program Planning, Supervision and Administration

- A. Intermediate and long range planning, particularly in preparation for annual plan and budget.
  1. Collect and analyze data on services needed, services provided, etc.
  2. Arrive at conclusions regarding equity of access and actual services.
  3. Assume leadership for development and operation of effective, comprehensive, community-wide programs for the developmentally disabled.
- B. Formulate and prepare the DD component of the Board's annual plan and budget.

1. Work with the Board, appropriate committees and staff of The Human Service Center.
  2. Work with other correlated federal, state and local agency representatives; e.g., North Central Area Health Planning Association, the appropriate divisions and bureaus of the State Dept. of Health & Social Services.
  3. Be aware of funding sources and how to obtain those funds.
- C. Establish program evaluation procedure and work toward the development of other research programs.
1. Assure that services from provider agencies or individuals are contracted and meet, at least, minimal standards.
  2. Monitor all Board-contracted purchase of services.
  3. Evaluate quality of services purchased by Board.
  4. Evaluate care and services for DD persons as received in state of other public institutions and in private institutions.
- D. Supervision of all Board-operated programs and services for the developmentally disabled.
1. Develop and maintain appropriate channels and procedures for placements, counseling, follow-along, protective services, case-finding, prevention, intervention, community-based living arrangements and extended care.
  2. Supervise activities of other staff in the area of developmental disabilities.

#### IV. Administration

- A. Maintain optimum utilization of system support.
1. Liaison tasks, administrative response, etc., relative to the State of Wisconsin.
  2. Consultation, as necessary, with personnel from Central and District offices and state institutions pertinent to developmental disabilities.
- B. Engage in staff development.
1. Training.
  2. Orientation.
  3. Continued education.
  4. Workshops, conferences, seminars.
- C. Assure that all administrative rules are followed.
1. Affirmative action.
  2. Civil rights.
  3. Consumer input;

that with the exception of changing the administrative experience requirement from four years to three years, reporting to the Executive Director instead of the Program Director, and the addition of II, C, 7, under "Responsibilities," the 1983 job description is the same as the 1978 job description for the DD Coordinator position; and that the foregoing job description was a result of the revision by Helen Nelson of the 1978 job description for that position.

8. That in the area of developmental disabilities the Board either purchases or provides the following services: prevention, intervention, day services, non-medical, sheltered employment services, special living arrangements, including group homes, foster homes and apartments, and protective services; that the DD Coordinator and the DD Services Specialist are the only full-time employees directly employed by the Board to provide developmental disabilities services; that Helen Nelson, the former DD Coordinator, is employed by the Board on a part-time basis to help out with some of the work in the area of providing protective services - receiving and disbursing payments to developmental disabilities clients; that the work now performed by Helen Nelson was part of her former duties as the DD Coordinator and was approximately 10 percent of the work time of the former DD Coordinator position; and that the Developmental Disabilities Committee, consisting of Board members, is responsible to the Board for overseeing this area of the Board's functions and responsibilities and meets once per month for that purpose.

9. That the DD Coordinator and the DD Services Specialist have their own separate offices at the Human Services Center; that the DD Coordinator spends approximately 10 percent of his time directly counseling and servicing clients and the remaining 90 percent of his time performing administrative functions; that the DD Services Specialist works in the Board's prevention and intervention programs and deals directly with the clients; that the DD Services Specialist reports directly to the DD Coordinator, but is also responsible to the Executive Director; that with the exception of specific assignments that might result from emergency situations, the DD Coordinator normally assigns general responsibilities to the DD Services Specialist, per the duties and responsibilities set forth in the job description for the position, and does not make daily assignments or check on assignments on a daily basis; that the DD Coordinator is responsible for training a new employe in the DD Services Specialist position; that if the DD Services Specialist is ill and cannot come to work, unless there is an emergency situation, the work generally does not get done that day; that all of the employes fill out their own "daily work sheet" and turn it in to the Executive Secretary; that the DD Coordinator is not responsible for keeping track of the DD Services Specialist's hours or approving them; that if the DD Services Specialist is ill, he/she calls in to the DD Coordinator or to the Executive Secretary, who relays the message to the DD Coordinator; that if the DD Services Specialist desires to take vacation time, compensatory time-off or a personal day, he/she must first obtain the DD Coordinator's approval and ultimately the Executive Director must approve it, however, the latter normally approves the request if the DD Coordinator has approved it; that the DD Coordinator has the primary responsibility for evaluating the DD Services Specialist's job performance; that in filling the DD Services Specialist position the previous DD Coordinator, Helen Nelson, advertised for the position, reviewed the applications and resumes of the applicants, selected and interviewed the applicants she felt were the best candidates, selected those she felt were the best candidates from those interviewed and presented them to the Developmental Disabilities Committee and made a recommendation to that Committee concerning who should be hired for the position; that the Developmental Disabilities Committee accepted Nelson's recommendation and passed it on to the Personnel Committee and ultimately to the Board; that the current DD Coordinator, Mueller, was involved in the hiring of the current DD Services Specialist, however, the Developmental Disabilities Committee did the interviewing of the candidates selected by Mueller; that the aforementioned procedure where Nelson was involved is the same procedure that the Executive Director would go through in filling a position; that there has never been any occasion to discipline or layoff anyone in the DD Services Specialist position; that the DD Coordinator has the primary responsibility for recommending to the Developmental Disabilities Committee whether a probationary employe in the DD Services Specialist position should be given permanent employment, however, the DD Coordinator would first inform the Executive Director of the recommendation; that when a new DD Services Specialist is hired the DD Coordinator is responsible for explaining the position's duties and responsibilities, as well as the Board's personnel policies and procedures, to the new person; that the current

DD Coordinator does not possess the authority to effectively recommend the hiring of the person to fill the DD Services Specialist position; that the DD Coordinator possesses the authority to direct and assign the DD Services Specialist, but, other than in a general way, only has occasion intermittently to exercise such authority; that only the DD Coordinator is responsible for the direct supervision of the DD Services Specialist; that the DD Services Specialist is the only employe for whom the DD Coordinator is responsible; and that the persons involved in performing the functions provided by contracted facilities are supervised by those facilities, and not the DD Coordinator.

10. That the DD Coordinator is directly responsible for administering the developmental disabilities programs that are either purchased or provided by the Board and implementing the Board's policies in the developmental disabilities area; that the Board-operated services are primarily provided through the DD Services Specialist; that the Board purchases services in the developmental disabilities area by contracting with other agencies and private facilities and individuals; that the DD Coordinator is responsible for reviewing the types of services that are mandated by state statute, keeping informed as to new services, reviewing the level of services to be provided and assessing the needs of people in the service area regarding developmental disabilities services; that in assessing whether there are needs and whether needs are being met, the DD Coordinator conducts surveys on his/her own initiative, assesses the results of such surveys and effectively makes recommendations to the Developmental Disabilities Committee as to whether programs need to be changed or whether new services are needed; that such recommendations include whether the service should be purchased or Board operated; that such recommendations usually are in regard to existing services rather than new services; that if the Developmental Disabilities Committee accepts the DD Coordinator's recommendation, the recommendation then goes to the Board's Finance Committee and then to the full Board for final approval and adoption; that historically the DD Coordinator's recommendations regarding developmental disabilities services usually have been followed; that the basic contract used to purchase services is provided by the State, however, that contract is often modified to fit the Board's particular needs and to fit the needs of the facility being contracted with; that in the area of purchased developmental disabilities services it has primarily been the DD Coordinator who has recommended such modifications, which the Developmental Disabilities Committee ultimately approved; that the DD Coordinator is responsible for comparing the bids where more than one contractor is bidding to perform a service, and for making a recommendation to the Developmental Disabilities Committee regarding which bid to accept; that the DD Coordinator is responsible for monitoring the contracts for purchased services, the billings from the contracted facilities and the performance of the contracted facilities in providing the purchased services; that the DD Coordinator's responsibility for monitoring the contracts and billings for purchased services include reviewing the billings and the contracts to make sure the former is consistent with the latter and making sure that the clients serviced were the ones determined to be eligible; that monitoring the contracts for purchased services also includes reviewing reports from the contracted facilities, recognizing when there is a potential problem and informing the Executive Director if there is a problem or potential problem; that the DD Coordinator discusses the problem with the Executive Director and what steps should be taken to correct the problem and then takes the steps determined to be necessary; that the DD Coordinator pursues complaints regarding what a contracted facility is or is not doing; that the DD Coordinator is responsible for reviewing the performances of the contracted facilities; that at times the Board contracts for evaluations of a contracted facility's performance and the DD Coordinator is directly involved in developing the nature of the evaluation and aids in the selection of the person or agency to do the evaluation; that the DD Coordinator is responsible for working out problems with other agencies; that the portion of the Board's total expenditures spent for providing developmental disabilities services in 1982 was 42.43% and in 1983 was 37.52%; that of the total monies spent by the Board to provide developmental disabilities services in 1982, 92.99% was spent for purchased services and 7.01% spent for Board operated services in 1982, and 92.36% spent for purchased services and 7.64% spent for Board operated services in 1983; that the DD Coordinator is responsible for developing the original budget request for the developmental disabilities area; that the budget request involves two categories: (1) budget requests from the contracted facilities and (2) the budget request the DD Coordinator develops in terms of his/her assessment of the need for prevention and intervention services in the upcoming year; that relative to the contracted facilities, such a facility submits a budget request to the

DD Coordinator, who then reviews it and compares it with the facility's budget for the prior year; that the DD Coordinator analyzes any changes and what is being requested in terms of job positions and line items; that the DD Coordinator explains such changes and makes a recommendation to the Developmental Disabilities Committee, the Finance Committee and the Board concerning that service contract; that before the DD Coordinator presents the developmental disabilities budget to the Developmental Disabilities Committee, he/she first discusses the budget with the Executive Director, however, the Executive Director's formal approval is not required and if they cannot agree as to whether an item should be included in the budget request, the DD Coordinator is able to submit the item; that the budget for developmental disabilities services is originally developed by the DD Coordinator and is then submitted, along with his/her recommendations, to the Developmental Disabilities Committee, then to the Finance Committee, the full Board, the county boards and the State, in that order; that the DD Coordinator is directly responsible for the expenditures in the developmental disabilities area; that in view of his/her substantial exercise of discretion and policy making judgment in establishing the original budget as described above the DD Coordinator has the effective authority to commit Board resources; that the DD Coordinator's ability to expend Board funds is limited to the budget that has been approved and by the Board policy requiring the approval of the Executive Director and the Board Chairman for capital expenditures up to \$300.00, the approval of the appropriate committee for capital expenditures from \$300.01 to \$500.00, and the approval of the full Board for capital expenditures over \$500.00; that the Board's policy requiring approval of capital expenditures applies to all of the Board's employes, including the Executive Director; that once the budget has been set, the DD Coordinator exercises little discretion in making expenditures; that beginning in January of 1984 the Executive Director began to hold "management-only" meetings at which personnel policies and related topics are discussed; that since their inception the DD Coordinator has attended such management-only meetings; that prior to the inception of the management-only meetings there were only administrative staff meetings which were also attended by the DD Services Specialist and the Client and Community Services Coordinator; that the DD Coordinator puts together the agenda for the Developmental Disabilities Committee's meetings and is required to attend those meetings; that the Developmental Disabilities Committee normally meets once per month; that at said meetings the DD Coordinator presents reports regarding the programs, informs the Committee as to new information, and is involved in the discussions on the budget and the purchased services contracts; that the DD Coordinator attends those meetings of the Finance Committee where developmental disabilities are at issue; that the Board normally meets once per month and the DD Coordinator is normally required to attend those meetings; and that the Executive Director is the direct supervisor of the DD Coordinator, but has very little involvement in the DD Coordinator's daily duties and responsibilities.

11. That Mueller does not possess and exercise supervisory authority in sufficient combination and degree to be deemed a supervisory employe; and that in his position as the DD Coordinator, Mueller participates in the formulation, determination and implementation of the Board's policy relative to developmental disabilities services and possesses the authority to commit Board resources to an extent sufficient to be deemed a managerial employe.

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

#### CONCLUSION OF LAW

That the occupant of the DD Coordinator position is not a supervisor within the meaning of Sec. 111.70(1)(o)1, Stats., but is a managerial employe and, therefore, is not a "municipal employe" within the meaning of Sec. 111.70(1)(i), Stats.

On the basis of the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

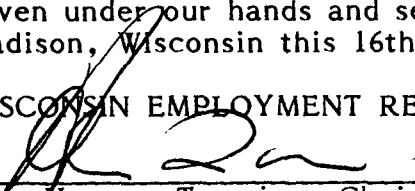
ORDER CLARIFYING BARGAINING UNIT 2/


That the position of Developmental Disabilities Coordinator be, and the same hereby is, excluded from the above described bargaining unit.

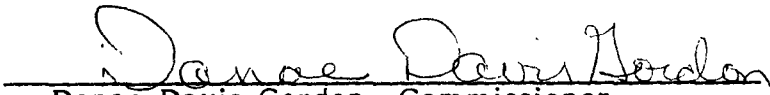
Given under our hands and seal at the City of  
Madison, Wisconsin this 16th day of May, 1985.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Chairman

  
Marshall L. Gratz, Commissioner

  
Danae Davis Gordon, Commissioner

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- 2/ Pursuant to Sec. 227.11(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.12(1) and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.16(1)(a), Stats.

227.12 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025 (3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.16 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.15 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefor personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.12, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.11. If a rehearing is requested under s. 227.12, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a

(Footnote 2 continued on Page 9)



petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.20 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

HUMAN SERVICES BOARD OF FOREST, ONEIDA AND VILAS COUNTIES

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

The Board seeks to exclude the position of DD Coordinator from the bargaining unit currently represented by the Union on the basis that the position is supervisory and managerial in nature.

POSITIONS OF THE PARTIES

In support of its contention that the DD Coordinator is a managerial position, the Board asserts that the DD Coordinator is involved in formulating policy. According to the Board, the DD Coordinator "is responsible for organizing and controlling the purchase or provision of all services supplied by the Developmental Disabilities section" which includes being responsible for the "overall budgeting process" for that section. The Board also asserts that the DD Coordinator makes the decisions as to what types of services are to be provided through his/her assessment of the needs of the people in this area. Having made the assessment and determined that a need exists, the DD Coordinator then recommends whether the service is to be purchased or provided directly by the Board. Hence, the person in the DD Coordinator position makes decisions as to what services will be provided and through which funding avenue, and therefore, the position should not be in a bargaining unit consisting of employees "who are directly affected by those decisions."

The Board also contends that the DD Coordinator "is highly involved in the implementation of management policy. . . ." The DD Coordinator is responsible for monitoring the purchased services and that responsibility includes monitoring the service contracts, monitoring the clients eligible for such services and making recommendations regarding the purchase of certain services. Further, the DD Coordinator is responsible for overseeing the payments to the contracted agencies, resolving problems concerning contracted services and reviewing the performance of the contracted agencies. In carrying out these responsibilities the DD Coordinator identifies client needs, establishes appropriate service goals and maintains the appropriate records. The Board contends that the DD Coordinator spends approximately 90% of his time performing such managerial functions.

Next, the Board contends that the DD Coordinator has the authority to commit the Board's resources and, therefore, must be considered to be a managerial employee. In that regard, the Board relies on the DD Coordinator's budgetary responsibilities and testimony to the effect that the position has the same authority to make expenditures as that possessed by the Executive Director.

The Board also argues that the DD Coordinator position should be excluded on the basis it is supervisory. The DD Coordinator supervises the Board-operated and the Board-purchased services and, in doing so, directly supervises the employee in the DD Services Specialist position. The DD Coordinator has input into the selection of the person to fill the DD Services Specialist position, including advertising for the position, reviewing the applications and resumes, interviewing the candidates, selecting the best candidates and referring them to the Developmental Disabilities Committee. The DD Coordinator is also responsible for determining whether or not a probationary employee should be given permanent employment and for evaluating the performance of that employee.

The Union opposed without elaboration the exclusion of the DD Coordinator position on grounds of alleged supervisory and managerial status.

DISCUSSION

Dispute as to Supervisory Status

Regarding the alleged supervisory status of the DD Coordinator, the Commission has consistently considered the following factors in determining whether a position is supervisory:

1. The authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees;

2. The authority to direct and assign the work force;
3. The number of employees supervised, and the number of other persons exercising greater, similar or lesser authority over the same employees;
4. The level of pay, including an evaluation of whether the supervisor is paid for his skill or for his supervision of employees;
5. Whether the supervisor is primarily supervising an activity or primarily supervising employees;
6. Whether the supervisor is a working supervisor or whether he spends a substantial majority of his time supervising employees; and
7. The amount of independent judgment and discretion exercised in the supervision of employees. 3/

While all of the criteria need not be present, they must appear in sufficient combination and degree to warrant finding an employe to be a supervisor. 4/

As noted in the Findings of Fact, although the DD Coordinator possesses some supervisory authority, it is not sufficient in combination or degree to warrant a finding that the position is supervisory. The DD Coordinator's supervisory authority is limited to one employe, the DD Services Specialist, and the record indicates that normally very little time is spent supervising that employe on a daily basis. Once trained, the DD Services Specialist is expected to know the job's duties and to carry them out without being told what to do. The DD Services Specialist must first obtain the DD Coordinator's approval to take vacation time or a personal day, but the ultimate decision is made by the Executive Director. While the DD Coordinator has some input into the hiring of the DD Services Specialist, that input was limited in Mueller's case to screening the applications and selecting the applicants to be interviewed. The Developmental Disabilities Committee did the interviewing and made the final selection. There is no evidence that Mueller made a recommendation as to who should be hired for the position. It does appear that the DD Coordinator possesses the authority to effectively recommend whether the probationary employe in the DD Services Specialist position should be given permanent employment and that the DD Coordinator is primarily responsible for evaluating the DD Services Specialist's job performance. However, we conclude that in the instant circumstances, that authority is not a sufficient basis for finding the position to be supervisory.

#### Dispute as to Managerial Status

The Board also alleges that the DD Coordinator is a managerial employe. The test for determining whether an employe is a manager is whether he/she participates in the formulation, determination and implementation of policy or has the effective authority to commit the employer's resources. 5/ We conclude that Mueller's duties and responsibilities are sufficiently aligned with the Board to make him a managerial employe. As the DD Coordinator, Mueller assesses the developmental disabilities needs of the people in the area serviced by the Board and determines whether those needs are being met. If he concludes they are not, he makes recommendations as to whether existing services should be modified or new services provided and, if the latter, whether the new service should be Board operated or purchased. Mueller is involved in the discussions with the Developmental Disabilities Committee, the Finance Committee and the full Board, regarding his recommendations on the needs and the services to be provided to

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3/ Northwood School District; Dec. No. 20022 (WERC, 10/82).

4/ Ibid.

5/ Madison Metropolitan School District, Dec. Nos. 20836-A, and 21200 (WERC, 11/83); Manitowoc County (Highway Department), Dec. No. 21886 (WERC, 8/84).

meet those needs. Once the decision has been made regarding a service to be provided, modified or eliminated, the DD Coordinator is responsible for implementing that decision and monitoring and coordinating the services being provided.

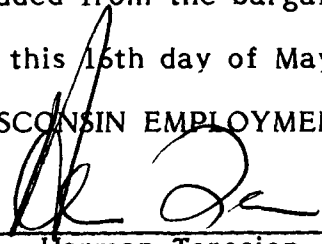
The DD Coordinator is also responsible for establishing the original budget for the Board's developmental disabilities program. Establishing the original budget in this case involves reviewing and analyzing the budget requests from existing contracted facilities, making recommendations regarding those requests and proposing modifications in the prevention and intervention services provided based upon the DD Coordinator's assessment of the need for such services. Thus, the DD Coordinator's role in budget establishment is not merely ministerial. It has significant policy-making dimensions which warrant the conclusion that the DD Coordinator possesses the effective authority to commit the Board's resources.

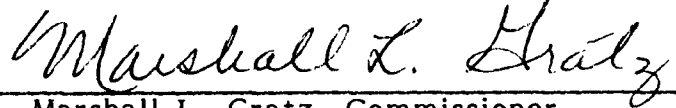
For the foregoing reasons, we conclude that the DD Coordinator is a managerial employe properly excluded from the bargaining unit.


Dated at Madison, Wisconsin this 16th day of May, 1985.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Herman Torosian, Chairman

  
Marshall L. Gratz, Commissioner

  
Danae Davis Gordon, Commissioner