

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

JOAN GOETZ,	:	
	:	
	:	
Complainant,	:	Case 15
	:	No. 42102 MP-2222
vs.	:	Decision No. 26045-B
	:	
GLENDALE-RIVER HILLS SCHOOL DISTRICT,	:	
	:	
Respondent.	:	
	:	

Appearances:

Mr. Stephen Pieroni, Staff Counsel, Wisconsin Education Association Council, P.O. Box 8003, Madison, Wisconsin 53708-8003, on behalf of Joan Goetz.
Davis and Kuelthau, S.C., Attorneys at Law, Suite 1400, 111 East Kilbourn Avenue, Milwaukee, Wisconsin 53202, by Mr. Mark F. Vetter and Mr. Daniel G. Vliet, on the brief, on behalf of the Glendale-River Hills School District.

FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

Joan Goetz, hereinafter the Complainant, having, on April 26, 1989, filed a complaint of prohibited practices with the Wisconsin Employment Relations Commission wherein it is alleged that the Glendale-River Hills School District, hereinafter the Respondent, has committed prohibited practices within the meaning of Secs. 111.70(3)(a)1, 2 and 3, Stats.; and the Commission having, on June 8, 1989, appointed David E. Shaw, a member of its staff, to act as Examiner in the matter; and the Respondent having on July 21, 1989 filed its answer to the complaint, along with a Motion to Dismiss and supporting argument; and the Complainant having, on August 2, 1989, submitted written argument in opposition to Respondent's Motion to Dismiss; and the Examiner having on August 4, 1989 issued an Order Denying Motion to Dismiss; and hearing on the complaint having been held at Glendale, Wisconsin on August 16 and 17, September 12 and 13, and October 30 and 31, 1989; and the parties having filed post-hearing briefs in the matter by July 31, 1990; and the Examiner 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, Conclusions of Law and Order.

FINDINGS OF FACT

1. That the Glendale-River Hills School District, hereinafter the Respondent, is a municipal employer with its offices located at Glenhills Middle School, 2600 West Mill Road, Glendale, Wisconsin 53209; that the Respondent is a kindergarten through 8th grade district and maintains and operates three school buildings: Parkway Elementary, Good Hope and Glen Hills; that since 1984, Robert Kattman has held the position of District Administrator for the Respondent and also in a shared capacity for the Maple Dale - Indian Hills School District, the latter also having its administrative offices located at the Glenhills Middle School building; that since January of 1985 and at all times material herein, Gary Swalve has held the position of Business Manager with the Respondent and is employed in that position in a shared capacity with Respondent and Maple Dale - Indian Hills School District; that Glenn Presser was employed by Respondent as the Director of

Recreation/Community Services until his retirement in June of 1985; that Robert Lang has been employed by the District as Director of Recreation/Community Services since approximately two weeks before Presser retired in June of 1985; that among his duties as Business Manager, Swalve is responsible for finances, budgeting, accounting, payroll, supervision of custodial and support staff, negotiating the collective bargaining agreement and handling grievances with the custodial personnel, developing and recommending policy changes with regard to the handbook for support staff and evaluating and making salary recommendations and salary schedule revisions with regard to support staff personnel; that in his capacity as Director of Recreation/Community Services Lang has a secretary, an assistant secretary, a custodian and program personnel who report directly to him; that Lang is responsible for the work of such personnel and for evaluating their job performances; and that Lang reports to Kattman.

2. That the Complainant, Joan Goetz, is an individual residing at 6565 Alberta Court, Glendale, Wisconsin 53217; that Goetz has been employed by the Respondent since the fall of 1983; that from the fall of 1983 Goetz was employed by the Respondent in a varied capacity performing clerical and aide duties; that in the summer of 1984 Goetz interviewed for and subsequently received the full-time position of Secretary to the Director in the Respondent's Recreation and Community Services Department and began training in the position around the end of August of 1984 and formally assumed the position October 11, 1984; that when Goetz assumed the position of Secretary to the Director the position was in the highest pay range of the salary schedule for support staff, Level V, and Goetz received \$7.50/hour to start in the position; and that besides the Director and Goetz, the Recreation and Community Services Department also contained the Senior Citizens' Coordinator, Lori Talasek, a maintenance employe, Jim Jacobson, and, sometime after Lang started, an Assistant Secretary, Paula Becker.

3. That for the 1985-86 school year Goetz was paid \$7.87/hour and the minimum and maximum for Level V at that time was \$7.85/hour and \$10.35/hour, respectively; that Lang's performance evaluation of Goetz for 1985-86 indicated that she was doing "very good" to "excellent" work, with the only qualification being that she needed to communicate more with Lang; that by the following letter of May 5, 1986 to Lang, Goetz requested a salary increase to be effective July 1, 1986:

May 5, 1986

Robert Lang
Director of Recreation
2600 W. Mill Road
Glendale, WI. 53209

Dear Bob,

Please consider this a formal request for an above average increase in salary beginning this July 1, 1986. My salary at present is \$7.87 per hour. This salary rate is just \$.02 above the lower range for category 5 secretaries. I am requesting that my per hour rate be increased to \$10.00.

The responsibilities of the Recreation Secretary far exceed the demands placed upon an average secretary. The Department has increased its programs consistently over the years and consequently the responsibilities of this position have also increased. I believe that this has gone unrecognized for a long period of time.

The job demands strong public relations skills aside from the already full time work that is expected. Last year the Department offered 54 programs to Glendale residents and it was my responsibility to register almost 5,000 people into those programs. In the spring alone, over 800 people are involved in softball and another 500 in summer school. This does not include swimming and other programs also offered in the summer. The work entails accurate accounting and record keeping leading up to the Recreation Department's Annual Report. The report consists of a detailed breakdown of Recreation Department receipts and expenses and other statistical information. It is also my sole responsibility to report the salaries of 50 to 60 part time employees. Decision making is a built in condition of this job. Without this characteristic a much heavier burden would be placed on the Director.

I accepted this position knowing its diversification and many challenges and have proved that I am capable of meeting the demands. What I am asking is that the job of Recreation Secretary be given due credit and appropriate compensation.

Thank you for your consideration to this matter.

Respectfully,

Joan Goetz
Recreation Secretary

that approximately four or five weeks later the Respondent issued a new salary schedule for support staff creating a new Level VI which contained the Secretary to the District Administrator and the Head Bookkeeper, the former having previously been in Level V and the latter being a newly-designated position; that Goetz met briefly with Kattman on June 16, 1986 to discuss her concerns about no longer being in the same pay category as the Secretary to the District Administrator and to let him know she was upset and to ask why she was not also raised to Level VI; that Goetz sent Kattman the following letter of June 16, 1986 commemorating their meeting:

Dear Mr. Kattman,

Thank you for meeting with me on Monday, June 16, 1986. My concern was the change in categories for support staff.

It is my understanding that because of the addition of category VI, my position will no longer be considered in the same category as bookkeeper and secretary to the District Administrator as it was before. For reasons which are unclear there seems to be a conflict between duties that I actually perform and duties that I am supposed to perform under the new classification.

I believe we need to clarify these issues and I will be anxiously awaiting your review of this matter.

Another consideration should be a response to my letter of May 5, 1986 in which I requested an increase in salary.

The increase requested was within the appropriate salary range for category V support staff and consideration was also given to the degree of responsibility. I ask that you review the letter and reply in writing.

Thank you for your attention to this matter.

Sincerely,

Joan Goetz
Recreation Secretary

that by the following letter of June 26, 1986, Swalve responded to Goetz's letter of June 16th:

Dear Joan:

Dr. Kattman referred your letter to me since the responsibility for Support Staff employees has been shifted to my office.

As explained by Dr. Kattman, the decision to establish a separate classification for District Administrator's Secretary and Head Bookkeeper has been discussed and accepted by the Administration and the School Board. At this time, no documentation has been presented which would influence us to reclassify your position. We continue to feel that it is appropriately grouped with the school secretary and regular bookkeeper classification. Bob Lang and I will be assessing the duties of your position this summer in an effort to eliminate what appear to be several tasks you are performing which are duplications of efforts of the Business Office. Further, in response to your May 5, 1986 letter, we feel that your compensation for 1986-87 has been established in a just and uniform manner and is consistent with the responsibilities of your position and the compensation packages provided to other district support staff.

Sincerely,

Gary /s/
Gary M. Swalve
District Business Administrator;

that effective July 1, 1986, Goetz received a raise to \$8.32/hour; and that Swalve subsequently met with Goetz for approximately one hour for the purpose of discussing her duties as to payroll in the Recreation Department.

4. That on October 13, 1986, Lang gave Goetz the following memorandum at the end of the workday:

To: Joan Goetz

From: Bob Lang

Date: October 13, 1986

It is important that there is a clear understanding of what is expected from you as a Recreation Department Secretary. According to your present job description it states as your major duty "Perform all necessary duties to ensure smooth operation of the Recreation Department". As a part of those duties it is necessary that you support the Director in every manner possible related to the planning, evaluation, management and administration of the Department.

Simply put you are considered support staff. There will always be a need for support staff, for certainly the services that support staff provide are invaluable. Likewise there will always be a need for a Recreation Department Secretary. The duties of a position may change periodically, but I can assure you that there will always be a need for a Recreation Department Secretary. The job of a Secretary is important, immeasurable and a job that one can be proud to have.

After our various discussions, it has become clear to me, that you are very unhappy with your present job, your job title, role as Department Secretary, your compensation and the way I administer the Department. As your Supervisor, I have tried to be understanding and empathetic to your feelings and concerns. However, after much time and consideration, it seems apparent that the situation has gradually begun to affect the efficient delivery of Department services.

You have a responsibility to yourself and the Department to accept your present role as Department Secretary, to accept your title, your compensation and my leadership. As Director, I must feel your enthusiastic support toward the Department and toward me as the Director.

Better communication and a sincere effort to resolve conflict may help to dissolve the problem. The fact remains we have a problem.

Should you be discontented and honestly feel you cannot work within the present parameters and conditions of

your job, your title, the expectations of the Director and your compensation you must reevaluate your position and situation.

When I arrived on the job you told me of the bitter feelings you had toward the last Director. After only fifteen months you seem unable to cope with my administration. I have tried my best to resolve conflict, to create open lines of communication and to be open minded and empathetic to your needs. The result has been total frustration.

You must learn to communicate with me, support me as Director (sharing your concerns when appropriate) and to understand the support nature of your duties and responsibilities as Recreation Department Secretary.

You possess the skills necessary to do the job well. However to be a good secretary you must want to be a secretary. In order to stay in this job you must accept what it means to be a support Secretary, and reflect that desire throughout your work. Please decide if you want to be my primary support secretary in the Recreation Department. Please give me your decision by November 14th. Thank you.

and that Goetz did not respond to said memorandum.

5. That Respondent's Board of Education, hereinafter the Board, appointed Goetz to the newly created Staff Incentive Committee, hereinafter SIC, as the Representative of Respondent's secretarial support staff; that in addition to Goetz, SIC was comprised of administrators, Dr. Kattman as an ad hoc member, three teachers - one from each school, a representative from Respondent's maintenance staff and citizens from the community; that a citizen member, Joe Burns, chaired the SIC; that the Board's charge to the SIC was to study and recommend an employe incentive program; that the SIC met for the first time on June 2, 1987 and at that meeting members were introduced, the background leading to the development of SIC was explained and the charge of the SIC was explained as being "to study and recommend an employee incentive program"; that thereafter the SIC met once or twice each month until it issued its report to the Board dated April 18, 1988; that as part of its work, the SIC distributed an "incentive survey" form to all of the staff on which they were to indicate current incentives they had in their jobs and incentives they would suggest; and that said survey form indicated that incentives to be listed were those "beyond current basic salary and benefit plans".

6. That on or about April 20, 1987, Swalve sent the following memorandum to the support staff noted therein regarding a change in the calculation of their hourly wage rates:

April 20, 1987

TO: Judi DiMattina, Barbara Dottai, Joan Feindt, Shirley Filtz, Joan Goetz, Joan Higgins, Lana Hoffman, Cece Koester, Kathy Lancello, Pat Limbach, Anne McNeany, Mary Michor, Lil Neumyer, Shirley Parsons, Lucille Platt, Joyce Potter, Audrey Roozen, Deborah Smith, Yvonne Smith, Kim Weis

FROM: Gary Swalve, Business Administrator

SUBJECT: 1987-88 Support Staff Hourly Rates

On certain days throughout the year, some support staff employees are scheduled to leave 20 or 30 minutes earlier than on their regular work days. These are generally on Fridays and the day before a holiday period such as Winter or Spring Break. To account for these days, we have adjusted your hourly rate for 1986-87. But we have not changed the total earnings due to you. For example:

Original Calculation

8 hours per day x 190 days = 1,520 hours @ \$7.30 per hour =
\$11,096.00

New Calculation

Fridays and Vacation Days Dismissed 20 minutes early = 12.5
hours

1,520 hours (from above) less 12.5 hours = 1,507.5 hours

\$11,096.00 (from above) divided by 1,507.5 = \$7.36 per hour
(adjusted hourly rate for 1986-87)

We have used your adjusted hourly rate for 1986-87 as the base from which to calculate your 1987-88 rate.

If you have any questions on this, please feel free to contact me;

that by memorandum dated July 13, 1987, Goetz advised Swalve that herself and other support staff who had signed an attached petition circulated by Goetz were requesting a meeting with Swalve to address questions and concerns they had regarding the recalculation of their hours; that Swalve responded to Goetz and the others by a memorandum of the same date explaining the reasons behind the recalculation and scheduling a meeting on the matter for July 23, 1987; that Swalve held a meeting on July 23, 1987 at 4:00 p.m. with the support staff, including Goetz, present, and responded to their questions regarding the recalculation of hours; that Goetz sent the following memorandum dated July 29, 1987 to Swalve with copies to the other support staff who had been at the July 23 meeting, Kattman, and Respondent's Board members:

GLENDALE-RIVER HILLS SCHOOLS

SUPPORT STAFF

To: Gary Swalve

From: Glendale-River Hills Schools - Support Staff

Re: Meeting of July 23, 1987 (4:00 p.m.)
Hours subtracted from certain Support Staff
personnel (see attached memorandum)

Date: July 29, 1987

Thank you for your prompt response to a recent request by the

Support Staff for an explanatory meeting concerning hourly rates. The meeting was informative and offered the support staff a chance to ask questions pertaining to the rationale behind this rather surprising decision. We understand that this was a joint decision between you and the District Administrator and that it was presented to the School Board and approved by them.

Considering the many questions that were asked, and the concerns expressed by the Support Staff, we have prepared a summary of some of the important issues that were discussed. They are stated below.

1.Of major concern - future implications of basing salary figures on fewer hours. Although there is no change in the total yearly salary, the hourly wage looks much higher. In one example given at the meeting the hourly salary based on fewer hours (42.5) was \$.43 higher than the actual hourly salary given a 5% increase. There is no benefit here for Support Staff, when it is clear that the more attractive hourly wage will be more competitive when compared with other school districts and that it will offer a more attractive starting salary for unknowing prospective employees.

Response: Assurance that the new rate based on fewer hours would have no effect on future wages and that the reason for this change was because of a new Federal law, and to create an hourly rate which could be more easily used for comparison with other districts.

2.Because of the fact that the new hourly wage based on fewer hours is so much higher on the salary schedule, the concern was that the salary schedule itself be adjusted to compensate for the apparent higher wage.

Response: The salary schedule was already in line with other school districts. Again, only the hourly rate needed adjustment.

3.The question was raised concerning new hours per day.
Example: Would an 8 hour per day employee still be considered an 8 hour per day employee, and if so, will there be an explanation of the new calculations wherever 8 hours per day appears? For instance:

a)on the salary schedule information prepared by the business office

b)in the support staff handbook

c)on job descriptions

d)on the salary schedule

Note: 8 hours per day now averages out to 7.83 hours per day

Without such clarification, the assumption could easily be made, that the hourly rate is based on 8

hour days.

Response: Eight hours per day still applies for most days, and there was an agreement to put an explanation of this somewhere in writing.

4. Concerning vacation days - Vacation days are 8 hour days. If an employee gets 10 days of vacation per year and all 10 vacation days are taken on Friday, will that employee be paid for the five hours of pay that have been removed? (1/2 hr. each Friday)

Response: If your individual supervisor does not mind, this time may be taken.

There were several unresolved issues that came up at the meeting. These issues are stated below.

1. Salary comparisons were made with other area school districts in the North Shore area.

-Which districts were used for comparison?

-How many hours per year/per day do they work?

-What are the salaries/benefits, etc.?

-Other detriments?

2. What is the new Federal law which prompted the decision to change the policy of hourly rates?

3. When comparing Glendale - River Hills Support Staff salaries with Mapledale Support Staff salaries, it was noted that Glendale staff pays 1/2 of their health insurance for three years and Mapledale staff pays none.

4. The issue of steps within the salary ranges, so that the high end of the schedule could be attainable within four or five years. It was pointed out that the way the schedule is set up now, the high end of the range is unattainable (several individuals who have worked in excess of 15 years with the District are still not at the top of their salary range)

It should be obvious that the issue of hourly wage based on fewer hours is not something that the Support Staff is taking lightly. We are a very capable, conscientious, hard working group of people who take our work seriously. These are people who are willing to work overtime without compensation when the job calls for it and have done this without question in the past. We are all anxious to continue top performance, high quality work for the good of the District. Please permit us to retain our motivation by providing open communication and equitable compensation.

cc:Support Staff
Dr. Robert Kattman
Glendale-River Hills District School Board Members

Support Staff members who attended the meeting:

Paula Becker	Lana Hoffman
Barbara Dottai	Lillian Neumyer
Shirley Filtz	Shirley Parsons
Joan Goetz	Audrey Roozen
Joan Higgins	Yvonne Smith

and that Goetz acted on her own in sending the memorandum.

7. That on or about May 13, 1987, Goetz sent Swalve the following memorandum:

TO:Gary Swalve
FROM:Joan Goetz
RE:Staff salary information
DATE:May 13, 1987

I would appreciate attaining the following information concerning support staff salaries at both the Glendale-River Hills and Mapledale School Districts.

- 1.Support staff salaries within each category or job classification (yearly/hourly)
- 2.Total years of service
- 3.Number of days worked per year
- 4.Length of day
- 5.Raise determination (i.e. cost of living, merit, years of service, etc.)
- 6.Benefits - what are they? (Mapledale only)
- 7.Overtime (i.e. compensatory time or time and one-half, etc.)

Please let me know if this will be a problem or if any of this information is not public.

Thank you for your attention to this matter.;

that Swalve sent Goetz a copy of said memorandum with a note on it stating "Joan - These have not been finalized for either district yet. I'll supply it to you when completed. Gary"; that on May 20, 1987, Goetz wrote back to Swalve that she wanted the 1985-86 and 1987-88 salaries when finalized and that she wanted to see him regarding items 2-7 on her memorandum; that shortly

thereafter Swalve verbally gave Goetz the information regarding items 2-7; and that Lang's performance evaluation of Goetz for 1986-87 indicated that she was doing "very good" to "excellent" work and no problems were noted.

8. That following the first meeting of the SIC, Goetz called a general meeting of all support staff after work on June 9, 1987 at Glen Hills School to inform them about the SIC and to get their suggestions; that fifteen members of the support staff attended said meeting; that after Goetz explained the SIC and its purpose there were discussions regarding work-related concerns of the support staff; that said discussions included concerns about salary schedule, individual raises, inconsistencies, how to obtain salary information, and support staff representation; that there were suggestions made at said meeting to have regular meetings of the support staff, to form a committee of representatives from each salary schedule group that could bring grievances, concerns, questions and suggestions regarding employment matters, to collectively develop proposals and/or recommendations to be presented to the administration and the Board, to invite Swalve to a meeting to answer questions regarding salaries and benefits, and to obtain salary information from other school districts; and that subsequent to the June 9th meeting, Becker and Goetz distributed the following minutes of the June 9th meeting to members of the support staff:

SUPPORT STAFF MEETING
JUNE 9, 1987

In attendance: Judi DiMattina, Shirley Filtz, Lena Negretti, Birdie Tripp, Lillian Neumyer, Audrey Roozen, Jan Petesch, Grace Haffner, Yvonne Smith, Sue Papp, Paula Becker, Mary Ann Wagner, Joan Feindt, Lori Talasek, Joan Goetz

After a brief welcome, the meeting began at 4:40 p.m. Joan Goetz, Support Staff Representative on the Incentive Committee, lead (sic) the group through a packet of information. Questions and comments were encouraged throughout the meeting. It was enlightening to hear co-workers concerns and personal experiences regarding their employment in the Glendale - River Hills School District. Below are listed some facts and highlights of the meeting. These are sent to you to keep you informed and also to encourage you to attend the next meeting planned for August 12, 1987. We will discuss incentives for support staff (see enclosed questions) and current salary information.

HIGHLIGHTS OF MEETING

1. Information about Incentive Committee including representation, goals of committee, budgeted amount of \$30,000, and due date (report is due to be presented to the School Board by 12/21/87).
2. History of handbook - informational not contractual
3. Discussion of salaries - Present method of payment, how to obtain salary information and what to ask for, salary schedules, percentage of individual raises, inconsistencies, evaluation and its significance in determining raises, etc.
4. Salary information from other school districts showing steps (vs. merit)

5. Discussion of support staff representation or lack of
6. Support Staff Salary information was available upon request

SUGGESTIONS AND RECOMMENDATIONS FROM THE MEETING

1. To have regular support staff meetings, the next one being before the next Incentive Committee Meeting on August 19, 1987.
2. To form a committee of representatives from each salary schedule group (I-VI). Such a committee could bring grievances, concerns, questions, suggestions together regarding our employment, salaries, benefits, etc.
3. Collectively, try to develop proposals and/or recommendations to be presented to the Administration and to the School Board.
4. Invite Business Administrator to one of our meetings to answer questions from Support Staff regarding salaries, benefits, etc.
5. Obtain updated salary schedules and salary information from other school districts for a comparative study.

NEXT SUPPORT STAFF MEETING: WEDNESDAY, AUGUST 12, 1987
4:20 p.m.

PLACE: Senior Center - Glen Hills - Lower level

BRING: Questions - ideas - suggestions
Look over and try to have answers to questions on part 2 of
Joe Burns outline (page 5)

ENCLOSED:

1. Incentive Committee purpose
2. Incentive Committee minutes of June 2, 1987
3. Incentive Committee minutes of June 16, 1987
- 4/5 Joe Burns outline
6. LEA incentive programs questionnaire

Thank you

(report submitted by Paula Becker and Joan Goetz)

Please fill out form below and return to Joan by August 5.

9. That on or about June 24, 1987 Goetz sent Swalve the following memorandum requesting information:

TO:Gary Swalve

FROM:Joan Goetz

RE:Staff salary information for fiscal year 1987-88

DATE:June 24, 1987

I would appreciate attaining the following information concerning support staff salaries at both the Glendale -River Hills and Mapledale School Districts.

- 1.Support staff salaries within each category or job classification (yearly/hourly) for both Glendale - River Hills and Mapledale School Districts.
- 2.Total years of service for both districts.
- 3.Total number of days worked per year for both districts.
- 4.Length of day
- 5.Raise determination (i.e. cost of living, merit, years of service, etc.)
- 6.Benefits - what are they (Mapledale only)
- 7.Overtime (i.e. compensatory time or time and one-half, etc.)

Please let me know if this will be a problem or if any of this information is not public.

Thank you for your attention to this matter.

10. That at the June 2 and June 16, 1987 meeting of the SIC, Goetz brought up and discussed matters including the Support Staff Handbook, raises, actual salaries, salary comparisons with the Mapledale School District, and problems in the areas of representation, longevity and merit or performance raises with regard to the support staff; and that Goetz was advised that the SIC would not deal with issues such as salary or whether a group was organized at the August 19, 1987 SIC meeting.

11. That in July of 1987, Swalve, Becker and Goetz met to discuss Becker's request to be raised to salary Level IV; that in August of 1987 Goetz, Becker, Lang and Kattman met at the Recreation Department to discuss Becker's request for a change to salary Level IV and Goetz's request for a job title change to "Manager/Bookkeeper" and change to salary Level VI; and that at said meeting, Kattman told Goetz to put her requests in writing to him.

12. That Goetz called a second general meeting of the support staff on August 12, 1987 and at said meeting there was continued discussion of forming a committee of representatives from each salary level of support staff; and that Goetz issued the following written notice to support staff of a third general meeting to be held on September 24, 1987:

IT'S TIME
FOR ANOTHER
SUPPORT STAFF MEETING

TIME TO MARK YOUR CALENDARS

FOR THE NEXT SUPPORT STAFF MEETING

TO BE HELD ON

THURSDAY, SEPTEMBER 24, AT 4:40 p.m.

GLEN HILLS FORUM

The primary topic for this meeting will be INCENTIVES FOR SUPPORT STAFF. Enclosed find a copy of the list of incentives presented to the Incentive Committee. For the meeting please fill out the question at the bottom of page two and bring it along to the meeting. You may use any, all or none of the incentives listed. Please list in order of priority.

We hope to discuss salary information and have salary comparisons with other school districts available.

At the last meeting, all hands were raised in favor of forming a committee of support staff representatives. There would be at least one representative from each group on the salary schedule. Please bring an idea of who you would like to represent your group.

SEE YOU THERE!

Joan Goetz, Incentive Committee Representative

13. That in early September of 1987 an employe of Respondent in the Business Office was fired and a short time later a new employe was hired in that office as a Maple Dale employe; that at about that time a secretary in the Maple Dale District, Jan Mikyska, received a telephone call in the morning from a person inquiring whether the job had been posted; that said call was approximately between 9:00 a.m. and 10:00 a.m.; that at about that same time in September, Swalve was told by one of Kattman's secretaries, Shirley Parsons, and the Head Bookkeeper, Bernice Nelson, that Goetz and Becker were spreading rumors about the new employe and were responsible for the "cold shoulder" treatment the new employe was receiving; that Swalve then went to the Recreation Office and met with Lang, Goetz and Becker in Lang's office where he accused Goetz and Becker of spreading rumors about the situation involving the one employe's leaving and the hiring of the new employe, as well as initiating the cold shoulder treatment for the new employe; and that both Goetz and Becker denied they had anything to do with the rumors or the cold shoulder treatment of the new employe and insisted they had just learned that morning that the one employe had left and a new employe had been hired.

14. That approximately a week after receiving the call referred to in the Finding above, Mikyska received another call inquiring about her duties and pay rate and those of the other secretaries at Maple Dale; that Mikyska would not answer the person's questions; that this second call also came approximately between 9:00 a.m. and 10:00 a.m. on a workday; that while Mikyska informed the other secretary in the office, Shirley Kopp, of the conversations at the times they took place, she did not inform her principal, or anyone else in management at Maple Dale of the calls at the time; that Mikyska believed the calls were from Goetz; and that Swalve and Kattman subsequently were advised that the calls to Mikyska had been from Goetz.

15. That a third general meeting of support staff was held on September 24, 1987 in the Glen Hills Middle School Forum after work hours and was led by Goetz; that eleven support staff, including Goetz, attended that meeting; that during said meeting the functions of a "Support Staff Representative Committee", hereinafter Support Staff Committee or SSC, were discussed and included reviewing salaries, presenting proposals for changes, hearing grievances, planning meetings with speakers and group communication and reviewing comparative studies of other districts; and that at said meeting eleven members of the support staff were selected as representatives from the various support staff salary levels to serve on the SSC, with Goetz to serve as the "coordinator/consultant" for the SSC.

16. That the following notice, along with the minutes of the September 24th meeting, was sent to all support staff in late September or early October of 1987:

CONGRATULATIONS
TO OUR
NEWLY ELECTED
SUPPORT STAFF
REPRESENTATIVES!

This timely flyer is sent to keep you informed!

As a result of the last support staff meeting (September 24th) a committee has been formed. The women listed below were nominated by those in attendance and all have accepted. All salary levels are represented and a liaison to the administration is in place. These women will represent you. Please contact them with your work related questions and concerns! With your input, they can do their best work.

IN CATEGORY 1

Lee Negrette (alternate) Judi DiMattina
Birdie Tripp

IN CATEGORY 2

Mary Ann Wagner (alternate)

IN CATEGORY 3

Paula Becker
Sue Patnaude
Yvonne Smith

IN CATEGORY 4

Joan Higgins (resigned)

IN CATEGORY 5

Barbara Dottai
Shirley Filtz

IN CATEGORY 6

* Audrey Roozen

*Audrey Roozen will serve as liaison for support staff and administrative staff

Joan Goetz will serve as coordinator/consultant

JoAnne Feindt will serve as corresponding secretary for general meetings

Please see attached minutes prepared by Sue Patnaude

CONGRATULATIONS TO ALL OF YOU

. . .

SUPPORT STAFF MEETING
SEPTEMBER 24, 1987

In attendance: Judi DiMattina, Joan Feindt, Shirley Filtz, Joan Goetz, Lena Negrette, Sue Patnaude, Joyce Potter, Audrey Roozen, Yvonne Smith, Roberta Tripp, Mary Ann Wagner

The Support Staff met in the Glen Hills Forum. Joan Goetz, Support Staff Representative on the Incentive Committee, led the meeting.

Although many topics were on the agenda, we discussed only three main issues and one which was spontaneous and not planned. This latter issue came up because the group insisted on airing the facts. Pressure has been put on certain members of the Support Staff not to talk about the recent release of Lana Hoffman from the business office. However, under the Constitution, we have the right to free speech, the right to assemble. At the conclusion of the discussion, the consensus seemed to be that even if the parting was mutual, Lana's release could have been handled in a more sensitive manner. As it was, the job opening was not posted making the transition even more difficult for those who knew Lana and for her replacement.

With thirty-eight people on the Support Staff, our group is second in numbers only to the Teaching Staff. As a group we have no voice, no advocate. We would like representation and the opportunity to share our ideas and opinions in situations that directly concern the Support Staff.

Joan Goetz brought up the topic of salary. Salary is determined in two ways: both by merit/performance & cost of living increase. According to Joan's 20-year projection, based on past increases, the top of the salary scale is unattainable.

All present agreed that the Support Staff needs representatives. Several members, at least one from each salary level, were elected to serve on a Representative Committee. Several others, not present but nominated, will be asked to serve also. The representatives will serve for a term of one school year.

The Support Staff Representative Committee could have many functions such as:

1. Reviewing salaries
2. Presenting proposals for changes
3. Hearing grievances
4. Planning meetings with speakers and group communication
5. Reviewing comparative studies of other districts

The members elected are:

Lena Negrette	Level 1	
Roberta Tripp		
Judi DiMattina	Level 2	
Yvonne Smith	Level 3	
Sue Patnaude		
Paula Becker (nominated)		
Joan Higgins	Level 4	Pat Limbach
(nominated)		(nominated)
Shirley Filtz	Level 5	
Barbara Dottai (nominated)		
Shirley Parsons		
(nominated)	Level 6	
Audrey Roosen		

(Audrey also offered to act as liaison (sic)
between Support Staff and
Administration)

During the last part of the meeting, incentives were discussed. Communication and mutual respect seem to have a higher priority than salary as incentive. We want to explore this further at a future meeting so save your ideas and incentive sheet.

Finally, there is an updated 1987-88 list of Support Staff salaries available. Please check your own data for correctness. If you have any corrections or questions, speak directly to Gary Swalve Audrey advised.

Joan Feindt agreed to take the minutes of future Support Staff meetings.

(notes submitted by Sue Patnaude)

17. That on or about October 7, 1987, Swalve sent the following memorandum to administrative personnel:

October 7, 1987

TO: Susan Boon, Bob Kattman, Bob Lang, Judy LeSage,
Jim Magestro, Jean Anne Morrow, Roger
Tietz, Jim Zielinski

FROM: Gary Swalve

SUBJECT: Support Staff Job Descriptions

Please review the job descriptions in your Support Staff Handbook. Make a copy and indicate your suggested changes on the copy and forward to my attention. It would be most helpful if you received the input of the support staff with regard to their individual position descriptions. Additionally, if there are any positions that don't seem to fit the general description in the Handbook, please initiate a new one for consideration.

Please complete this review and update and provide the materials to me no later than November 13, 1987;

that in the latter part of October of 1987 Swalve became aware through conversations with Barb Dottai and Joyce Potter, two members of the support staff, and Principals Magestro and LeSage, that the SSC was encouraging support staff to "have their jobs reevaluated" and possibly reclassified on the salary schedule through the review of the job descriptions; and that Swalve indicated in response that it was not the Administration's intent to reevaluate and reclassify positions, rather, it was to review job descriptions for minor changes and to develop more standard descriptions for similar positions.

18. That the first meeting of the SSC was held after work hours on October 15, 1987 at the Senior Center; that the SSC subsequently met on October 20 and 27, November 2 and 23, 1987 and January 20, 1988; that notices of the meetings were sent to SSC members prior to the meetings; and that the following minutes of the October 15, 20 and 27 SSC meetings, respectively, reflect the discussions held at those meetings:

SUPPORT STAFF COMMITTEE
MINUTES

Meeting date: Thursday, October 15, 1987 (1st meeting)

In Attendance: Judi DiMattina, Barbara Dottai, Audrey
Roosen, Joan Higgins, Shirley Filtz,
Birdie Tripp, Joan Goetz, Sue
Patnaude, Lee Negrette, Paula Becker

Absent: 0

The meeting began at 4:50 p.m. Joan Goetz expressed thanks and congratulations to all in attendance & in particular thanked Sue Patnaude for her work on the minutes. Joan made the suggestion that support staff committee meetings be kept private so that members could feel free to speak on whatever issues might arise. It was stated as a matter of clarification that the committee is a positive vehicle which offers the opportunity for support staff to be represented, to have positive input into decision making, and to have dignity in work related situations.

Joan passed around a number of informative materials including: an incentive questionnaire, an incentive suggestion, a recalculated hours graph, a salary scale packet of information including Whitefish Bay "step" information. Regarding incentives, Joan noted that the total \$30,000. set aside for incentives would break down to \$225.56 per person considering the fact that there are 133 employees including teachers, support staff, and maintenance workers.

There was group discussion on a variety of subjects including: keeping meetings short (1 hour or less if possible), and some issues were brought up -

- some explanator (sic) statement(s) or (sic) hours change needs to be put on the current support staff salary sheet (Gary Swalve said he would do that, but it hasn't been accomplished yet)
- salary comparison materials (North Shore) have not as yet been received (Gary Swalve also said he would provide this information) Mapledale information should be a part of North Shore information.
- the issue of some incentive(?) for experience or pay for longevity might be a good suggestion.

Joan suggested that all issues should be surfaced, prioritized, and a work timetable set up in order to avoid the frustration of the feeling that "nothing gets accomplished".

A few people had to leave around 5:00 p.m. The next meeting date was set for Tuesday, October 6th at 4:40 p.m. in the Glen Hills Coffee Room. The official meeting ended at this time, however a number of people continued to talk until about 6:00 p.m. and during this time it was suggested that the voting procedures for

decision making be set up.

This next meeting we hope to set up the "meat" of the committee's work, so bring your GREAT IDEAS and we'll solidify ourselves as a committee as to who we are, what we intend to accomplish, how we will accomplish it, and a timetable to guide the work.

RESPECTFULLY SUBMITTED, Paula Becker

. . .

SUPPORT STAFF COMMITTEE
MINUTES - 10/20/87

IN ATTENDANCE: Joan Goetz, Shirley Filtz, Barbara Dottai,
Yvonne Smith, Sue Patnaude, Paula
Becker, Mary Ann Wagner, Birdie
Tripp.

Excused: Audrey Roozen, Joan Higgins, Judy DiMattina

The meeting opened at 4:40 p.m. The minutes of 10/15/87 were corrected to show "Joan" in body of minutes to be Joan Goetz (to avoid confusion with Joan Higgins).

Joan Goetz thanked everyone in attendance.

The framework of the meeting was established. That being 1) state issues, 2) prioritize issues, 3) tackle issues. Discussion of a time frame took place. We were reminded that if we want input we must work quickly. Salary work is completed by the administration at least by April. That would mean we need concrete work accomplished in the next few months.

Joan Goetz handed out a new guide concerning recalculated hours and noted that this year the figures 2044 hours is used because of leap year. Next year 2037.5 hours will be used. She encouraged 8 hour per day people to plot their own graph.

Time was spent reviewing "inconsistencies" in salary which were brought up at the last meeting, those being:

1. New people paid more.
2. Those with a lot of longevity not at top of salary range.
3. An average of .70 cents off the bottom of the salary ranges.
4. Some people have "slipped" in the salary schedule.
5. Salary schedule has not increased as much this year.
6. Some people who switched categories were not given longevity and started at the bottom of the scale.
7. Other "inconsistencies" exist.

After discussion, it was suggested that the support staff committee can assume that inconsistencies do exist and are problematic.

Job descriptions were discussed and in particular the fact that if all support staff are being asked to update their job descriptions, the support staff committee should ask that these updated job descriptions be used

for reevaluation of jobs - not just as replacements for previous job descriptions. Paula Becker volunteered to draft a communication to all support staff regarding the above and will bring it to the next meeting for group O.K. or change.

In regard to the salary schedule, it was noted that although many months have passed since Joan Goetz asked for the North Shore Comparative salary study information, it has still not come from the business office. This situation is part of a number of pieces of information which are needed from the Business Office along with corrections and/or explanations which have been asked for and not received. After discussion, Sue Patnaude volunteered to draft a memorandum from the support staff committee to Gary Swalve which would restate the above requests. Sue will bring the memo to the next meeting for O.K. or changes.

Joan Goetz raised the question of whether the support staff committee should formally announce itself and to whom. There was discussion regarding announcement to the School Board. It was the general feeling of the committee that this might bring negative results. Joan Goetz volunteered to bring to the next meeting examples of such announcements which would be positive rather than negative.

Discussion developed that concerned a number of issues including new employees being hired at higher hourly salaries than experienced, same level employees, benefits for 9 month people, and the frustration of not being able to move up if a position has significantly changed. Yvonne Smith volunteered to make telephone calls and try to secure salary information from Brown Deer, Fox Point and Bayside School. Mapledale information should come to us through the Business Office. Whitefish Bay is still negotiating salaries for support staff.

Concluding this meeting, discussion centered on the need for input into whatever work is being done by the administration on support staff concerns and the need for structural change in categories and salaries for support staff.

The next meeting will be Tuesday, October 27 at 4:40 p.m. in the Glen Hills Coffee Room. At that time we will work with the materials Paula, Sue, Yvonne and Joan Goetz will bring and hopefully start listing major concerns that the administration could address and how that would be done.

The meeting closed at approximately 5:45 p.m.

Respectfully submitted

Paula Becker

. . .
support staff committee
MINUTES

MEETING DATE: Tuesday, October 27, 1987

IN ATTENDANCE: Shirley Filtz, Birdie Tripp, Joan Goetz,
Yvonne Smith, Mary Ann Wagner,
Audrey Roozen, Sue Patnaude, Paula
Becker

Excused: Barbara Dottai

This meeting opened at 4:45 p.m. The minutes of October 20, 1987 were accepted. Joan Goetz announced that Joan Higgins had asked to be relieved of her responsibility on the Support Staff Committee due to personal time constraints.

This meeting cleared up the volunteer work which had been initiated at the last meeting.

Sue Patnaude read the memorandum she had composed requesting certain information. After discussion the committee requested a minor change be made. Sue said she would make the adjustment and the memo would be delivered to Gary Swalve by Friday, October 30th with a copy to Dr. Kattman. (At the time of writing these minutes, I am aware that the above has been accomplished.)

Audrey Roozen advised the committee that the 1988-89 salary work is presented to the School Board by February. The need for the committee to work efficiently if we wish input into the process was highlighted.

Paula Becker read the memorandum she had composed to the support staff regarding job description updating. The committee accepted the memorandum as written. Sue Patnaude took copies for distribution to Good Hope School. Shirley Filtz took copies for distribution to Parkway School. Paula Becker will distribute to Glen Hills support staff. (At the time of writing these minutes, I strongly suspect the above has been accomplished.)

Joan Goetz read the letter of introduction she composed to School Board Members. She also read a few paragraphs which might or might not be added. The committee agreed to send the letter without the additional paragraphs. The letter will first be delivered to Dr. Kattman and Gary Swalve. (At the time of writing these minutes, Joan Goetz has delivered the letter to Dr. Kattman and Gary Swalve (Wed., Oct. 28). The letters to the board were mailed Monday (Nov. 1) a.m.)

This meeting closed at 5:45 p.m. The next meeting will be Monday, November 2nd at 4:40 p.m. in the Glen Hills Library. At that time the committee will work on listing problem areas and begin discussion of possible input suggestions.

Respectfully submitted,

Paula Becker

19. That on or about October 26, 1987 Goetz sent Kattman the following letter regarding her request for a change in her job title and salary level:

TO:Dr. Robert Kattman

FROM:Joan Goetz

RE:Request for change in job title and salary category

DATE:October 26, 1987

In August of this year, we met concerning my request for a new job title and change of category level.

As you know, when you originally designed the salary schedule, the position of Recreation Secretary was in the same category as the District Administrator's secretary and head bookkeeper. Although, with the sharing of Administrative and accounting services, the responsibilities of secretaries in those offices has increased, so have the responsibilities of the recreation office personnel. Since I began three years ago, the number of programs offered by the Recreation Department have increased dramatically. During the 14 year tenure of Ferol Wenzel, who preceded me, programs have doubled. However, staff and recognition have remained the same.

Robert Lang and I have discussed the change in job title from secretary to manager/bookkeeper. Bob compared my position with those of other recreation secretaries. Although he agrees that the job of recreation secretary is unique and most definitely involves management responsibilities, his opinion is that they are similar to other departments.

However, after consulting with recreation department secretaries in the Milwaukee area, several differences become apparent. The most prominent was in the area of financial reporting and payroll. No one that I spoke with prepared an annual report or handled payroll and personnel.

The District Business Office has a Business Administrator, one level six bookkeeper and two level five bookkeepers. The Recreation Department, with all of its diversity and financial reporting - accountable to its own board (A.R.C.) - has a Director, one level five secretary and one level three secretary (6 hours/day).

I respectfully request that you recognize the unique contribution of the Recreation Department, and I ask for the title of manager/bookkeeper, and a new assignment to level six plus tenure. I am also supporting the change in title for the assistant secretary to Program Secretary and that her level be raised to level four.

As per your request in August, I have attached an updated job description for your review.

Attached is a copy of the last payroll and its breakdown and copies of the last two worksheets for the breakdown of receipts for your information.

Thank you for your kind consideration to this matter.

Sincerely,

Joan E. Goetz
Secretary
Department of Recreation
and Community Services

jg
attachments: job description
payroll sheet and breakdown
receipts worksheets

20. That the SSC sent Swalve the following letter of October 27, 1987:

GLENDALE-RIVER HILLS SCHOOLS

OCTOBER 27, 1987

TO: GARY SWALVE

FROM: THE SUPPORT STAFF COMMITTEE

SUBJECTS: UPDATED JOB DESCRIPTIONS, RE-EVALUATION OF JOB
DESCRIPTIONS, CHANGES IN JOB TITLES;
CLARIFICATION OF HOURS; SALARY SCHEDULE
INPUT; COMPARATIVE SALARY SCHEDULES

Gary, the Support Staff Committee has several topics that we'd like to present to you for consideration.

Several members of the Support Staff have questions about their job descriptions which no longer match the work load or even the job title. We would like to have our jobs re-evaluated, not just re-described.

Would you please give us a calendar noting the days when certain people receive the half hour early release? Also, please specify the average daily hours of these people so they can compute their actual hourly wages.

Most of us are also interested in the existing Salary Schedule. We would like to share our ideas with you for possible changes that would seem to be mutually attractive. We're gathering information and looking forward to a future meeting with you.

Thank you, we have received some of the comparative salary schedules through Audrey Roozen, our liaison between support staff and administration. As a committee we are exploring current, 1987-1988, comparative salary schedules. We would appreciate any further information you may have about other school district support staff salary ranges. Please pass it along to Audrey for us.

We sincerely want to maintain open communication with you. We think everyone will benefit.

The Support Staff Committee

cc: Robert Kattman

21. That the following letter dated October 21, 1987 was drafted by Becker and approved by the SSC at its October 27, 1987 meeting and subsequently distributed to support staff:

Dear Co-Worker:

The Support Staff Committee is aware that the Administration has requested that all job descriptions be updated by mid November. You may or may not have been contacted by your immediate supervisor regarding this.

Please bear in mind that your job description is very important to you. It should reflect what you do. It is what you get paid for. You should have input into what it contains and you should feel comfortable that it is correct. Please spend the time and effort necessary to make your job description truly reflective of your work and interact with your immediate supervisor and co-workers about it. It is possible that your job has changed significantly and needs to be specifically reevaluated.

One quick suggestion that we can make is that if you use the computer in your work, your job description should say so. (Attached is an example of work done on a job description by a support staff person. This person is asking for specific job reevaluation and a possible category (salary) upgrading.)

If you'd like more information concerning this issue, please speak with your support staff representative. Don't make the mistake of just giving your job description update a quick "O.K." You may regret later not spending the time to "do it right" now.

Support Staff Committee

Attachments

22. That at the October 27, 1987 SSC meeting a letter to the Board drafted by Goetz was approved; that Roozen delivered the letter to Kattman on October 28, 1987 for his review prior to its being sent to the Board; that on the following Monday morning, the letter was sent to the Board without any response having been received at that time from Kattman, and that said letter reads as follows:

GLENDALE-RIVER HILLS SCHOOLS
SUPPORT STAFF COMMITTEE
2600 W. Mill Road
Glendale, WI 53209

October 28, 1987

School Board Members
Glendale-River Hills School District
2600 W. Mill Road
Glendale, WI 53209

Dear

The Glendale-River Hills School District employs approximately 36 support staff consisting of bookkeepers, secretaries, para-professionals, library personnel, lunch room aids, etc. Collectively, we represent the second largest group of employees in the District.

Considering our numbers, we have had little or no representation. During the past year, it has become increasingly apparent that there is a definite need for organization amongst our members.

Therefore, within the last few months we have had 3 general meetings of support staff culminating in an election of representatives from each level of the salary schedule.

The committee meetings thus far have been very positive and rewarding and afford its members an opportunity to discuss such issues as the salary schedule, job descriptions/re-evaluation, recalculation of hours, salary comparisons, job posting and others.

Support Staff members are dedicated to serving our children and the District. The committee is intended to enhance our work and strengthen communication with administration.

We are introducing our committee to you, our school board members, to keep you informed.

We would like to take this opportunity to thank you for your service to the community and to the employees of the Glendale-River Hills School District.

Sincerely,

Support Staff Committee
Glendale-River Hills Schools

cc:Robert Kattman
Gary Swalve
Judith LeSage
James Magestro
Roger Tietz

23. That Kattman did not read the letter from the SSC to the Board until Sunday night and felt the letter was inappropriate; that Kattman discussed the matter with Swalve on Monday morning and told Roozen the letter was not appropriate to be sent and that the "group" should first meet with Swalve and himself to let them know who the SSC was and what they represented; that Roozen said she would inform the SSC; that Roozen later came back and informed Kattman the letter had been sent; that Kattman was of the impression the letter had been sent in spite of his objection; that prior to the letter Kattman was not aware there was a group calling itself the Support Staff Committee, but was aware through Roozen that there was a group of employees that she was helping to obtain information; and that Swalve was made aware of the existence of the SSC in the middle to latter part of October of 1987 due to comments from individual support staff and via the letter dated October 27, 1987 to him from the SSC.

24. That the SSC met on November 2, 1987; and that the following minutes accurately set forth a summary of the matters discussed at said meeting:

SUPPORT STAFF COMMITTEE MINUTES

Meeting Date: November 2, 1987

IN ATTENDANCE: Barbara Dottai, Judy DiMattina, Sue Patnaude, Shirley Filtz, Joan Goetz, Yvonne Smith, Audrey Roozen, Paula Becker, Lee Negretti, Mary Ann Wagner, Birdie Tripp.

The meeting opened at 4:40 p.m. Review of the minutes of October 27th, 1987 generated discussion regarding the school board letter which was approved by the committee on (sic) at the last meeting. The central issue regarding this matter developed to be a procedural question and it was suggested that a communication difficulty may have occurred with the committee.

Audrey Roozen shared with the committee information which Gary Swalve and Dr. Kattman had discussed with her. This information regarding the role of the committee and procedures was discussed. Audrey advised the committee of Mr. Swalve's desire for a general support staff meeting possibly on Friday, November 6th. The committee agreed this was an opportunity to listen to administration, but that the support staff committee's work is not yet ready for presentation to the administration.

It was suggested that minutes from all support staff committee meetings be sent to all support staff personnel. Minutes and information from previous meetings will be sent along with current minutes.

Yvonne Smith distributed a salary breakdown based on salary level and years of service. This information will be considered for future use.

Toward the close of the meeting, the committee returned to the subject of it's role. It was suggested that the meeting on Friday with Gary Swalve might be an appropriate time to raise the following questions:

1. What rights do we as a committee composed of support staff representatives have:

a. to meet ?

b. to write and send appropriate materials to the school board ?

c. to expect written/verbal responses from the administration to requests within a reasonable period of time ?

2. What rights do we have, if we choose to speak as a group rather than as individuals, to expect recognition and input ?

This meeting closed at approximately 6:00 p.m. The next meeting date was left open, but will be shortly after the meeting with Gary Swalve. Support staff committee members were asked to come prepared at the next support

staff committee meeting with information regarding "inconsistencies" and proposal suggestions for rectifying such "inconsistencies".

Respectfully submitted,

Paula Becker

25. That on November 3, 1987, Swalve issued the following memorandum to all support staff:

November 3, 1987

TO: All Support Staff

FROM: Gary Swalve, Business Administrator

SUBJECT: Informational Meeting

It has come to the attention of the administration that the avenues and methods of communication with support staff need improvement. Therefore, for this year, one of my personal objectives is to address this issue through scheduling several meetings throughout the year for the purpose of responding to staff questions and concerns.

On Friday, November 6, 1987, at 1:00 p.m. we will meet in the Forum at Glen Hills School. This is an early release day and your attendance at this meeting has been approved by your Building Principal. Those who are not normally scheduled to work, are strongly urged to attend.

I will attempt to respond to any question, concern or comment you may have on any topic of interest to you. If I'm not able to respond on the spot, I'll arrange to get an answer for you. This meeting may also raise topics of interest for future communications meetings.

I look forward to meeting with you on Friday.

26. That a meeting was held of all support staff on November 6, 1987 at which Swalve and Kattman and most of the school principals were also present; that the purpose of the meeting, as expressed in Swalve's memorandum of November 3rd, was subsequently changed by Swalve and Kattman after they were made aware by Roozen that the letter from the SSC had been sent to the Board; that at said meeting Swalve read the SSC letter to the Board aloud and stated the administration's concerns about the use of such words as "collectively" and asked if the support staff was starting a union and, if so, had they taken steps to make sure it was representative of the staff; that the general response from the support staff was that there was no intent to form a union; that Kattman appeared upset and asked what they thought such terms as "collective", "representation" and "we represent the second largest group" referred to; that the general response from the support staff was that they did not understand those terms to refer to unionizing; that Kattman stated he was extremely upset about the letter to the Board because, in his view, it purported to establish a union, which they were now denying, and because they had circumvented his opportunity to interact with the committee, and because they had asked him to review the letter and after he had told them he did not feel it was appropriate to send it and wanted to meet with them, they had sent it anyway, and in effect said to him they did not "give a damn" what he thought; that someone from the support staff explained that the letter had been sent before they were made aware of his feelings about the latter, and

thereafter, Kattman appeared less angry; that Kattman stated he did not know who the committee was and that he had never been provided with any names and did not know who communications were supposed to go to; that in response Goetz stood up and stated they had not been secretive and suggested that the other members of the SSC stand and identify themselves and they did so; that Kattman stated that he would like their names in writing and to know what the committee is all about; that Becker responded they would provide him with the names of the SSC members in writing; that the meeting lasted approximately one hour and all but one or two support staff were present; and that some of the support staff indicated at the meeting that they were not aware of the existence of the SSC.

27. That on Saturday, November 7, 1987, Roozen called Kattman and asked to meet with him that morning to discuss the situation; that Kattman and Roozen did meet that day at which time Roozen told him that she had not told him that she had told the SSC that he did not want the letter mailed, but that they decided to do it anyway, or at least that is not what she intended to convey, that rather it had already been mailed when she informed them; and that Kattman responded that he recalled her words to the effect he had stated at the meeting, but that he would accept her statement that the letter had been sent before she was able to advise the SSC of his feelings and he did not blame her for the situation.

28. That early in the week following the November 6, 1987 meeting Swalve and Kattman met to discuss the situation; that Swalve and Kattman questioned SSC's status due to comments made by some support staff at the meeting that they did not know the SSC existed and subsequent comments by other support staff to Principals Magestro and LeSage and to Swalve that they did not feel the SSC represented them or that they did not support the SSC's actions; and that Kattman directed Swalve to try and determine the extent to which the SSC represented the support staff and in the meantime to comply with the SSC's request for information to the extent of providing whatever information was available in Respondent's normal records, but not to create documents they did not have; that Kattman and Swalve decided to continue with reviewing the job descriptions and also to wait and see whatever "proposal" the SSC would make; and that Kattman and Swalve subsequently let it be known that the Administration would not recognize the SSC, as they felt it was not representative of the support staff, and indicated they would be starting a new committee.

29. That the SSC met on November 23, 1987 and approved a letter identifying the SSC members, and thereafter Becker sent the following memorandum on behalf of the SSC:

Glendale-River Hills Schools SUPPORT STAFF COMMITTEE

TO: Gary Swalve

FROM: Support Staff Committee

RE: Membership

DATE: November, 1987

As per Dr. Kattman's recent request, below please find names of all Support Staff Committee members. We trust this information is helpful. Please feel free to contact members with questions or concerns you might have. It is our hope that a mutually beneficial result may occur from the efforts of the Support Staff Committee.

Let us also take this opportunity to ask for a reply to our memorandum of October 27, 1987. You will recall this

memorandum concerned "UPDATED JOB DESCRIPTIONS; CHANGES
IN JOB TITLES; CLARIFICATION OF HOURS; SALARY SCHEDULE
INPUT; COMPARATIVE SALARY SCHEDULES"

SUPPORT STAFF MEMBERS: Paula Becker, Secretary Sue Patnaude
Judi DiMattina Audrey Roozen, Liaison
Barbara Dottai Yvonne Smith
Shirley Filtz Birdie Tripp
Joan Goetz, Coordinator Mary Ann Wagner
Lee Negrette

For your convenience written responses may be directed to
Audrey Roozen, who is acting as liaison to the
administration, or to Paula Becker, Support Staff
Committee Secretary.

30. That the SSC sent Swalve the following memorandum dated December 1,
1987 with an attached example of the type of information being requested:

Glendale-River Hills Schools SUPPORT STAFF COMMITTEE

TO: Gary Swalve

FROM: Support Staff Committee

RE: Mapledale Support Staff Salaries

DATE: December 1, 1987

The Support Staff Committee is in need of current (1987-88)
Mapledale Support Staff Salary information.

As per our request of October 27, 1987 and previous requests
both written and verbal, please see attached copy of
Glendale - River Hills Support Staff information. We
would appreciate Mapledale salary information to
include, as Glendale - River Hills information shows:
name of support staff employee, years of service,
class, hours per day, days per year, hours per year,
rate, and annual salary.

Please respond to our request in writing by December 14,
1987. If you are in any way uncertain of our request,
please feel free to contact Audrey Roozen or Paula
Becker regarding clarification.

The Support Staff Committee looks forward to your assistance
in this matter, and thanks you in advance for your
prompt attention.

(1) attachment

31. That on December 3, 1987, Swalve, Kattman and Lang met with Goetz
to go over the final revision of her job description to make sure she

understood it and to clarify any areas where she had questions; that Goetz questioned changes Kattman had made from the revision made by her and Lang and indicated that they had redone her description with the intent to have the position reclassified to Level VI of the salary schedule, that she did not feel standardizing her description with others was acceptable, that she disagreed with the qualifications set forth in the revised job description, and that she had a problem with having something her and Lang had agreed upon overruled at a higher level by Kattman.

32. That on December 4, 1987, Goetz was approximately 5 to 10 minutes late returning to the Recreation Department office from the copying room after Lang had previously requested that she be back in the office by 10:15 a.m., as he had an important meeting to attend with Dr. Kattman and a district administrator from another school district; that Lang saw Goetz in the hallway on his way out and scolded her in front of another district employe for being late; that at the end of the day on December 4th, Lang told Goetz to lock the door to the Recreation Department office, shut off the lights and to come into his office and close the door; that Goetz ultimately complied with Lang's directives; that Lang appeared angry and proceeded to tell Goetz how upset he was with her and told her "If you think this is bad, things are going to get a lot worse" and the meeting ended; that on December 14, 1987 Lang issued the following memorandum to Goetz:

To:Joan Goetz

From:Bob Lang

Re:Office Hours

Date:December 14, 1987

On Friday, December 4th I requested that you be in the office at 10:15 a.m. because of an important meeting scheduled with Dr. Kattman and Dr. Reiels. You returned at 10:25 a.m. after the District Administrator's secretary summoned you.

Today the office was closed during coffee break, even though two employees were available to alternate their breaks. The recreation office should remain open to the public during regular hours.

Also today at 1:15 p.m. you had not returned to the office from lunch.

In the future it should be understood that only under RARE circumstances would our office not be open to the public during regularly scheduled hours.

In the future your 45 minute lunch break should occur between 12:00 and 1:00 p.m. It is expected that you will be here at 8:00 a.m. and 1:00 p.m. It is also requested that alternate breaks be taken by the office secretaries, in this way the recreation office will be open to the public during scheduled hours.

Consider this memo and our meeting today as a formal request (there have been many verbal requests to date) to adhere to items listed;

that Lang wrote on the bottom of the memorandum "This memo will not be shared with anyone" and initialed it; that Goetz subsequently asked Kattman if she could meet with him and did so on December 16, 1987 to discuss the memorandum of December 14th and problems she was having working with Lang; and that Goetz followed up that meeting by the following memorandum to Kattman of December 28, 1987, with the December 14th memorandum attached:

To:Robert Kattman

From:Joan Goetz

Re:Meeting of December 16, 1987

Date:December 28, 1987

Thank you for meeting with me on December 16. I am always sorry when meetings of this nature are necessary. I would like to comment more directly to the memo which I received from Bob Lang dated December 14, 1987. (attached)

As we discussed, I certainly do not intentionally try to be late for anything or purposely cause Bob frustration, and I intend to be very careful in this area in the future. However, I am also very concerned about being constantly scrutinized in this manner.

The first incident that Bob mentioned, concerned a meeting that he had scheduled to which I was ten minutes late. Actually, it was only five minutes as the clock in the Recreation Office is always fast. Also, this was the week when Paula Becker was out of town and I was trying my best to do two jobs in the office. Bob chose to discipline me in the outer hallway and in front of Ruth Derse. I must strongly object to this way of handling the situation. It was a humiliating experience. I apologized to Bob for being late. But my apology was not accepted. After Bob returned from his meeting, I apologized again for being late and was told that it was "my job to make him happy". I am not excusing my lateness. However, Bob did have an alternative to being late for his meeting and having this kind of confrontation. Lori Talasek was a few doors down in the Senior Center, and he could have had her cover for those few minutes.

In the second paragraph Bob says the office was closed during coffee break. This was not true, because Bob stopped Paula and I in the hallway and Paula returned to the office immediately. I grabbed a cup of coffee and also returned to the office. What made us decide to go for coffee together, was that we were busy in the office and it was already past 10:30. I agree that the office should have coverage and will do my best in the future to see that this does not happen again.

Concerning the paragraph on lunch break. I am always careful to keep my lunch hour to 45 minutes. Bob wants me to take my lunch break between noon and 1:00 p.m. which does not give me a lot of leeway. On the day in question, Bob Lang and Paula Becker did not return to the office from their meeting with you until 12:30 p.m. I intentionally delayed leaving for my lunch until they returned, fearing that Bob would be angry if I

locked the office. Bob left a little after 12:30 and I lingered to speak with Paula for a few more minutes. I then took my usual 45 minute lunch period. Bob Lang called Paula at 1:15 p.m. to check if I had returned and had Paula leave a message on my desk that he would return from lunch at 2:30 p.m. I believe that this admonishment was unreasonable. Paula Becker's hours are from 8:00 a.m. to 2:00 p.m. She does not take a lunch period during that time, so that the office is always covered during the lunch hour anyway.

I would like to mention facts regarding Bob's meeting with me on December 14, 1987. First of all, it was totally unexpected and was almost closing time -4:20 p.m. to be exact. Everyone was gone for the day. Bob directed me to turn off the office lights and lock the door. He then said that this would be a "very serious" discussion. He also directed me to close his inner office door. I refused, but pushed it slightly shut. Bob's face was red and he appeared very angry. I was frightened. At the end of his angry confrontation, he told me that if I thought this was bad, that "things were going to get a lot worse". I found this whole incident to be rather threatening.

As an employee of this District with an excellent record of competency, must I endure an atmosphere of harassment, intimidation, threats and constant nit-picking? Can I not expect respect and a certain amount of harmony and cooperation?

I also suggested to you that this was not an isolated incident, and that I have seen and heard Bob in other confrontational situations. In a meeting that we had a year ago, I reported to you that Bob Lang puts people down. Now one year later, I want to report that the situation has not changed. Bob has reported feelings of frustration to me on many occasions. These did not concern me, but were related to other situations that occurred.

I want to make it quite clear that I will take no responsibility for any feelings of frustration that Bob may feel.

I am always cooperative and courteous and try to do my job to the best of my ability. Many times, I have stayed late when crisis situations arose. This year I volunteered one entire evening for the Department's annual softball banquet and was not paid as I have been for the past several years. I did this willingly and will probably continue to do this as long as I am needed.

Thank you for meeting with me. I will be anxiously awaiting your reply.

Attachment:

33. That the SSC sent Swalve the following memorandum dated December 22, 1987:

Glendale-River Hills Schools SUPPORT STAFF COMMITTEE

TO:Gary Swalve

FROM:Support Staff Committee

RE:Mapledale Support Staff Salaries

DATE:December 22, 1987

In response to our memorandum of December 1 requesting current (1987-88) Mapledale support staff salary information, we understand you have advised Audrey Roozen that the requested information is forthcoming.

We did respectfully ask that your written response be made by December 14th.

Please advise the date this information will be prepared.

Thank you in advance for your prompt written response. Again, if you are in any way uncertain of our request, please feel free to contact Audrey Roozen or Paula Becker regarding clarification.

34. That by memorandum from Becker dated January 5, 1988 to other SSC members, a draft of a memorandum to Kattman from the SSC was provided to them for their review with the statement that "if Joan Goetz doesn't hear from you by the afternoon of Thursday, January 7th voicing any problem you may have, the memo will be sent"; and that Goetz subsequently sent Kattman the following memorandum on behalf of the SSC:

Glendale-River Hills Schools SUPPORT STAFF COMMITTEE

TO:Dr. Kattman

FROM:Support Staff Committee

RE:Mapledale Support Staff Salaries

DATE:January 5, 1988

Attached please find copies of memoranda directed to Gary Swalve requesting current Mapledale support staff salary information. Written requests for this information date back to October 27, 1987. Previous to the October date verbal requests had been made. The Support Staff Committee is still waiting for this information. What could the problem be?

This memorandum is directed to you in an effort to follow correct procedure. The Support Staff Committee understands that our first contact is Gary Swalve, that you are our second contact, and that the school board is our third contact.

We would appreciate receipt of the requested information, in the form which we have requested (see attachment to memo of December 1, 1987), be in our hands within 10 business days. We thank you in advance for your prompt cooperation and communication.

For your convenience this information, or any questions you may have if you are in any way uncertain of our request, can be directed to Audrey Roozen or Paula Becker.

CC: Gary Swalve
Attachments

35. That in late November or December of 1987 Kattman and Swalve decided to create the Administrative Joint Goals Committee, hereinafter the JGC; that thereafter Swalve divided the support staff into four groups --- one from each of Respondent's three schools and one from the District office personnel, with each group to elect two representatives to serve on the JGC; that at Good Hope School Swalve and the principal held a meeting of the support staff at that school and informed them that the administration would not recognize the SSC and was starting a new committee with representatives from each group; that Swalve and the principal then left the employes alone to elect two representatives in whatever manner they desired; that a similar approach was followed at each of the schools and at the District Office; that on or about the day of the elections for the District Office, Kattman made a comment to Roozen and another of his secretaries, Shirley Parsons, to the effect that Swalve would have a great deal of difficulty working with Goetz due to the confrontations he had with her in the past, that the vote among the District Office support staff resulted in a tie between Becker and Roozen; and that Roozen subsequently voted for herself, breaking the tie and resulting in her being elected to the JGC.

36. That on January 20, 1988, the SSC met for the last time and discussed whether to continue as a committee since the administration would not recognize them; and that at said meeting they ultimately decided not to continue, but that they might try to form again sometime in the future.

37. That the first meeting of the JGC was held on January 28, 1988 and Swalve informed the representatives that he would chair the JGC; that all of the support staff personnel who were on the SSC were elected as representatives on the JGC with the exception of Goetz and Becker; that the JGC met for the most part on a monthly basis during the school year, and at times twice per month; and at other times, did not meet during the month; that Swalve ultimately controlled the agendas for the JGC meetings, but accepted input from others on the JGC with regard to agenda items; that the JGC discussed many of the concerns raised by the SSC, including topics such as position descriptions, salary schedules, salary inequities and benefits; that the responsibility for taking minutes was rotated among members and minutes were to be general, rather than detailed; that the minutes were first circulated among JGC members and Swalve for review and corrections prior to being distributed to the support staff in general; that there came a point in time when Swalve decided that the minutes of the JGC meetings would be distributed only to JGC members and not to all support staff; that the JGC did not vote on items it discussed; that at the April 28, 1988 JGC meeting, Roozen passed around a letter thanking Goetz for her work and leadership on the SSC to be read and signed by those who had been on the SSC; that after Swalve had presented a step schedule for consideration, the JGC met without Swalve to consider the schedule and decided it would rather keep the status quo in that regard and so informed Swalve at the next regular meeting of the JGC; that for the most part the input from the support staff was through informal conversations with the elected members of the JGC; and that most of the JGC meetings were held after regular work hours, but at least the meetings in December of 1988 and January of 1989 were held in the mornings during work time.

38. That on January 29, 1988, Lang issued Goetz the following memorandum in response to a comment Goetz had made to the Recreation Department Maintenance Man, Jimmy Jacobson, when he arrived for work at 3:00 p.m. that day:

1-29-88

5:30 p.m.

Dear Joan,

I feel I must address you on the comment you made to Jimmy regarding his arrival at three o'clock (As you stated "3-0-0").

The comment was perceived by me as negative & destructive. The comment served no purpose except to frustrate me and to hurt you personally and create ill will and hard feelings.

I ask you now to make a sincere effort to avoid negative comments and to approach me directly on any issue of importance to you.

I know we can arise above any differences or problems that may exist and work effectively and productively together.

Sincerely,

Bob

39. That Lang reported to Kattman several times in January and February of 1988 that he was having problems with Goetz being disrespectful toward him by her attitude and sarcastic comments and that she was not transferring the telephone in the Recreation Department over to the answering machine when the office was unattended; that Kattman advised Lang on these occasions to document the problems and follow progressive discipline with Goetz, rather than ignoring the problems; that in March of 1988 Goetz and Becker requested of Lang that they meet on a regular basis to discuss how Goetz and Becker were doing in Lang's opinion, i.e., whether Lang had any problems with how they were working in the office, and to discuss office concerns; that Goetz, Becker and Lang met on March 22, 1988 in the Recreation Office and discussed how Goetz and Becker were performing in Lang's opinion and Goetz and Becker also informed Lang that they felt awkward and uncomfortable when Lang expressed to them his frustration with other employes and they disagreed with his comments, but did not feel they could respond to them without being perceived by Lang as being negative; that Goetz took minutes of the March 22 meeting with Lang and on March 25, 1988 Becker gave Lang the following memorandum from Goetz and herself commemorating the meeting:

TO:Bob Lang

FROM:Paula Becker and Joan Goetz

RE:MEETING OF MARCH 22, 1988

DATE:March 25, 1988

Thank you for the meeting of March 22nd. We were very pleased to hear your response to our question of how the past week went to be "just great". We were further pleased to hear you say that you had "no problems for the past few months". We will continue to apply our efforts in this positive direction.

We appreciate your recognition of the problems of your "venting your frustration" toward Joan and myself regarding problems of a personal nature you may have with other of your personnel. It was hopeful to us that you were agreeable to our suggestion of trying to solve this problem by making use of a signaling device which might alert you to the fact that Joan and I are experiencing great difficulty during such times.

We are looking forward to the progress which we feel is underway at eliminating any difficulties which may occur in a prompt and effective manner. Thank you for your assistance in this endeavor.

We look forward to our next meeting.;

that shortly after receiving said memorandum, Lang came out of his office and yelled at Becker for "documenting" their meeting and misstating what he had said; that Becker was turned away from Lang while seated typing at her desk and Lang told her "you look at me when I'm talking to you" or words to that effect; that Becker then answered a telephone call and thereafter, upset by Lang's outburst, left the office in tears; that later that same day Lang approached Goetz to explain why he had responded the way he did earlier in the day and Goetz asked Lang to leave her alone so she could do her work; and that subsequently Goetz, Becker and Lang only informally discussed their concerns and no longer met formally for that purpose, nor took minutes of such meetings.

40. That in May of 1988 Lang issued Goetz' her evaluation for the 1987-88 school year; that said evaluation stated the following:

GLENDALE-RIVER HILLS SCHOOL DISTRICT

SUPPORT STAFF PERSONNEL
PERFORMANCE REVIEW

NAME Joan Goetz DATE 5/6/88

EVALUATOR Robert Lang SCHOOL Recreation Department

ATTITUDE/DEPENDABILITY TOWARD POSITION _____

Very dependable

"see attached for additional comments"

KNOWLEDGE OF POSITION REQUIREMENTS _____

Very good

ORGANIZATION/QUALITY/QUANTITY OF WORK _____

Excellent organizational skills and work quality. Quality of work is average. When the work load is great, better communication with the director is needed to prioritize work assignments.

ABILITY TO FOLLOW DIRECTIONS AND REQUESTS _____

In general, most directions and requests are followed.

ABILITY TO WORK INDEPENDENTLY _____

Excellent

COOPERATION AND RELATIONS WITH OTHER EMPLOYEES AND STUDENTS _____

Cooperation with students and the public is outstanding. The recreation secretary is frequently under pressure and handles the people & various problems very professionally. Her relations with the public is a great strength.

OTHER

"See attached sheet for additional comments".

I have read the above, reviewed it with my supervisor, and understand that same will be placed in the personnel file.

Robert Lang
Administrator's Signature
See attachment dated 5/12/88

Joan E. Goetz
Employee's Signature

4/28/88
Date

6-7-88
Date

Signed in protest to the handwritten comments of the Director.

and that Lang attached the following handwritten comments to Goetz' evaluation:

Joan is a very hard worker. She takes her job and responsibilities very seriously. She has great potential as an employee. Generally, her office performance as a secretary has been very good - especially during the past 12 weeks.

Concerns which surfaced during the year usually focused on issues related to support staff involvement, job evaluations, job descriptions, compensation and administrative policies and procedures.

Joan's dissatisfaction in her job became evident and negative behavior and attitudes resulted. Office morale suffered and unnecessary feelings of ill-will were generated. Although usually very professional by nature, office distractions occurred and a general unwillingness to support and communicate with the director resulted.

Feelings of frustration, lack of trust with the administration and job dissatisfaction were expressed. Comments were made to the director inferring that he was interfering with her work; snooping around the office behind employees' backs; inappropriately managing other employees and comments were made to the effect that she doubted that a good relationship could be maintained because of a lack of trust and respect. Other comments were made on behalf of other employees even though it was often made clear that she should only represent her concerns.

Comments and feelings surfaced which were disrespectful and can no longer be unsaid. Presently, it does seem that Joan clearly understands future expectations. Certain behavior and attitudes should not and cannot resurface without serious ramifications.

Presently Joan seems to have reevaluated and put into perspective her role as support staff secretary. A continued self evaluation of the position should allow a better understanding of the position. A positive

attitude seems to have emerged. However, if job satisfaction is not a reality and seems improbable in the present position, then serious consideration should be given to a career decision which could positively enhance her professional goals and objectives. Should you decide that job satisfaction can be a reality and a professional working relationship maintained, then I look forward to working and interacting with you.

In ending, I would like you to know that your hard work, great energy and efforts, aspirations and tremendous potential are recognized. The recreation secretary position is an important and critical job, simultaneously you must recognize certain limitations which exist, accepting the roles and responsibilities as designed. You have already proven that you can be and are a great secretary, something you can and should be very proud of. The choices are up to you.

I would like to follow-up on this evaluation to discuss with you your decisions and expectations for the future. Assuming those discussions support your continued role (and desire) as recreation secretary, I will strongly recommend a standard increase in compensation. I feel that with our present situation, that an increase would be in the best interest of the school district, recreation department and the recreation secretary.

41. That after receiving her 1987-88 evaluation from Lang, Goetz sent Lang and Kattman the following memorandum of May 12, 1988 in response:

TO:Robert Lang and Dr. Robert Kattman

FROM:Joan Goetz

RE:Job Evaluation

DATE:May 12, 1988

THE FOLLOWING COMMENTS ARE IN RESPONSE TO THE JOB EVALUATION
DATED MAY 6, 1988 - JOAN GOETZ BY ROBERT LANG

As secretary in the Department of Recreation, I believe that this past year has been most productive and rewarding.

Many positive things have happened and deserve mention here. One was my appointment by the School Board to serve as the representative for Support Staff on the Incentive Committee. It afforded me a way to communicate support staff concerns, and also to learn the kinds of incentives which are most important to the entire staff. Another positive experience was organizing four general meetings for support staff which culminated in an election of a support staff committee. Both of these experiences gave me a great deal of personal satisfaction.

As stated in the performance section of my evaluation, it was also a very positive work related year with exceptional comments made in the areas of working independently and public relations. If I were to pick two, those would be the ones in which I would choose to excel. All of the other comments on the evaluation were also very good. It is my understanding that support staff salaries are presently determined by the cost of living standard and performance. I would expect to receive the same kind of salary increase this year as other support staff members who also received good evaluations.

An area that needs to be addressed is the handwritten notes of the director which have been attached to the performance evaluation. Mention was made of job dissatisfaction. As I have stated many times, both to the Director of Recreation and the District Administrator, my work as Recreation Secretary is interesting, diversified and very challenging. I find this job, with its many deadlines constantly stimulating. My responsibilities are numerous; including office bookkeeping, payroll and the departments' annual report. I contend that there is no job dissatisfaction on my part. Certainly any dissatisfaction would have revealed itself in my performance.

Not included in my job description, however, is the responsibility for office morale, or assuming the many frustrations of the Director. On two separate meetings with the District Administrator - one approximately six months ago, and one about a year before that, I discussed two areas which concerned me about the recreation department. The first was the critical approach that the director takes toward employees and the second was the mixed messages received by the staff. After both of these meetings, I was promised follow up. There may have indeed been follow up. However, I am not aware of any to date.

OTHER POINTS TO BE MADE:

1. No conversation between the Director and myself has ever taken place concerning administrative policies and procedures.
 2. Job descriptions were developed with painstaking efforts of the Director, myself and the assistant secretary. The director made many changes, corrections and additions. We all strived for perfection in evaluating our tasks.
 3. Discussion of job evaluations occurred when the Director informed both the assistant secretary and myself that unfavorable comments would be made on both of our evaluations. He also stated that he felt pressured to write these unfavorable comments. However, he did not elaborate on this.
 4. "Interfering with my work" - a misquote - "leave me alone so that I may do my work" - actual statement. This was said as a reaction to a meeting that had just taken place with the assistant secretary and the Director. At that meeting, the Director asked the assistant secretary to take her two weeks vacation and to not come in on Monday. The Director then tried to justify this situation with me. Needless to say, it was upsetting.
 5. Although my reactions are directly related to how I am treated, I am sensitive to the Directors' demand for respect.
 6. Under quality/quantity of work on the evaluation, the director suggests that communication and prioritization of work is related to the work load. I would agree with this assessment. Later, amongst his handwritten comments, he suggested that communication is hindered due to job dissatisfaction. I believe that my previous comments on job satisfaction should suffice here.
 7. My work has been consistent for the last four years in the recreation department. I enjoy the work and it shows. The last "twelve weeks" have been no different.
 8. I have not found it necessary to re-evaluate or put into perspective my role as support staff secretary.
 9. All work for support staff general meetings, support staff committee work and most of the incentive committee work was all done on my own time.
42. That on or about May 6, 1988, Lang issued the following performance evaluation to Becker for the 1987-88 year with attached handwritten comments:

GLENDALE-RIVER HILLS SCHOOL DISTRICT

SUPPORT STAFF PERSONNEL
PERFORMANCE REVIEW

NAME Paula Becker

DATE May 6, 1988

EVALUATOR Robert Lang

SCHOOL Recreation Department

ATTITUDE/DEPENDABILITY TOWARD POSITION

Very dependable

"see attached notes regarding attitude"

KNOWLEDGE OF POSITION REQUIREMENTS

Very good. Prioritizes the work flow very well.

ORGANIZATION/QUALITY/QUANTITY OF WORK

Excellent - produces high quality of work and an unusually high quantity of work.

ABILITY TO FOLLOW DIRECTIONS AND REQUESTS

Excellent.

ABILITY TO WORK INDEPENDENTLY

Very good.

COOPERATION AND RELATIONS WITH OTHER EMPLOYEES AND STUDENTS

See attached notes. Very good interaction with students and the general public.

OTHER

I have read the above, reviewed it with my supervisor, and understand that same will be placed in the personnel file.

Robert Lang /s/

Administrator's Signature

Employee's Signature

April 28, 1988

Date

In the event that the performance review and evaluation was written only for the time since February 1, 1988, the following comments would be unnecessary (sic). Presently, Paula's performance has been very good.

Paula's interaction with the administration regarding support staff committee items; job evaluations; job descriptions; compensation and other policies and procedures often resulted with negative behaviors and attitudes. Often disrespectful comments were made to the director of recreation regarding his management, and general school district management and administration. Office morale suffered and unnecessary general feelings of ill will resulted. Office disruptions due to the aforementioned items were common and an unwillingness to support and communicate with the director was an aftereffect. At times a very patronizing attitude and behaviors occurred toward the director.

Many feelings, behaviors and comments have surfaced which cannot be changed. As these concerns became more common and more severe, it was made clear to Paula that certain behaviors and attitudes would no longer be tolerated. What has been perceived as concerns should not and cannot resurface without serious ramifications.

Presently it does seem that Paula has understood these concerns and has responded in excellent fashion. Her work has been very efficient, effective and professional. Since February, her attitudes and behavior have been very positive.

In ending, I would like to reconfirm that Paula (and the position responsibilities) should be advanced to a level IV position. The decision to elevate the assistant recreation secretary position from level III to level IV is deserving and would be in the best interest of the school district recreation department and the assistant recreation secretary.

that Becker responded to the above evaluation by submitting the following typed

statement which was attached to the evaluation:

TO BE ATTACHED TO MAY 6, 1988 PERFORMANCE EVALUATION FOR PAULA BECKER

I am pleased with my outstanding performance review. Mr. Lang has told me that this performance review took a great deal of time and thought on his part and I appreciate his effort and recommendation to elevate the assistant recreation secretary position from level III to level IV.

Attached please find copies of a letter and student card from Cardinal Stritch College which formally welcomes me into a Masters in Management Program. I would earn a Masters of Science in Management (MSM) degree upon completion. I would like these placed in my permanent file. I am very proud to be accepted into this Masters Program and I look forward to continuing my formal education. I trust my value as an employee of the Glendale-River Hills School District will increase as I am still more able to share the fruits of my education and skills.

Since beginning my position in the Recreation Department three years ago, I have diligently endeavored to provide the work which was needed. This past year has been no exception. My ability to anticipate work needs has grown and I find myself now to be in a position of a problem solver for clients and the department. It is rewarding to see a smile on the face of a member of the Glendale community when "extra" effort is expended to see that a class that was special "worked out" or when a phone call is handled exactly as the caller needed.

Regarding the two pages of handwritten comments attached to my performance review, I have been counseled that reference to "support staff concerns", which are not part of my job responsibilities, have no place on a performance review and thus make this review illegal. I have been advised not to sign this performance review.

Possibly, I can help sort out some of the generalized comments contained in the handwritten notes attached to this performance review.

Regarding paragraph one:

The erroneous impression is given that only since February 1, 1988 has my work performance been "very good". I am proud of my work performance for each day of this past year. My performance reviews for the past two years are excellent and I believe speak for themselves.

Regarding paragraph two:

This paragraph speaks very generally of "interactions", "negative behaviors", "attitudes", "disrespectful comments", "unnecessary general feelings", etc. It seems all of the above revolve around an issue of concerns which relate to the support staff in the Glendale-River Hills School District. As stated

previously, these concerns have nothing to do with my performance as an Assistant Secretary in the Recreation Department. In the way of clarification, these concerns were not my sole concerns born in isolation. They were the collective work of a Support Staff Committee which was initiated by Joan Goetz, Recreation Secretary, due to her School Board appointment to the Incentive Committee this past year. Joan did a good job. I learned a lot from her and the members of the Support Staff Committee. Joan recently received a formal letter of thank you from the current Support Staff Committee for her groundbreaking work (see attached). The current Support Staff Committee consists of all of the same members as the original Support Staff Committee with the exception of Joan Goetz, its founder, and myself. Business Manager Swalve presently works with the Support Staff Committee to resolve concerns. These concerns were legitimate when I spoke of them and they remain so as evidenced by Mr. Swalve's work of the past months.

My educational background (graduated in 1985 from Cardinal Stritch College, highest grade point average in my major, Psychology, my minor was Communication, and I was awarded my BA degree Magna Cum Laude) has taught me to take an assertive and forthright attitude toward problems. I was taught to define problems and then to take steps toward problem solution. It is frightening that my efforts were not valued and that I was subjected to extreme external stress.

Regarding paragraph three:

It is stated: "Many feelings, behaviors, and comments have surfaced which cannot be changed." May I suggest a more positive approach be taken in regard to the past. How foolish not to learn from the past and use it for affirmative growth. Paragraph three continues: "What has been perceived as concerns should not and cannot resurface without serious ramifications". To this I would simply ask, if concerns were and are legitimate to whom should I bring these concerns? I had been under the impression that the correct procedure was to first speak with my immediate supervisor and then, if the concerns were unresolved, to seek the next higher supervisor. If my immediate supervisor cannot or will not serve in that capacity, should I go to the next higher level without first seeking the aid of my immediate supervisor?

I hope the above clarifies some issues and brings a sense of closure to the attached performance review.

Paula Becker /s/
Paula Becker

43. That Lang recommended that Goetz receive the same percentage wage

increase for the 1988-89 school year received by the other secretaries; that Swalve recommended that Goetz receive no wage increase for the 1988-89 school year and indicated it was due to what he considered to be a poor performance evaluation; that Kattman resolved the situation by deciding that Goetz should receive approximately one-half the percentage pay raise received by the other secretaries, indicating it was due to what he perceived as problems with her attitude and lack of support for Lang; and that by the following letter of July 11, 1988 Swalve advised Goetz of the decision to give her one-half of a raise for the 1988-89 school year:

July 11, 1988

Joan Goetz
6565 North Alberta
Glendale, WI 53217

Dear Joan:

At the regular Board Meeting on June 20, 1988, the School Board approved the attached Salary Schedule for Support Staff for the 1988-89 school year. Also attached are revised Position Descriptions approved by the Board at the same meeting. Please insert these Position Descriptions and Salary Schedule as replacement pages in your Support Staff Handbook.

Bob Lang, Bob Kattman, and I have discussed the past year's performance review and your attached response, and are all in agreement with a 2.9% hourly wage increase for the 1988-89 year over the 1987-88 year. This 2.9% is approximately one-half the average support staff increase. Your resulting rate is \$9.32 per hour. You will be employed for eight hours per day on a 260 day contract resulting in 2,037.50 hours per year. This calculation takes into account early release on Fridays and the day before a scheduled holiday. As a 12-month, 8-hour day employee, your salary will be divided into 24 equal installments in order to provide us the opportunity of reporting to the State of Wisconsin under the new hourly pension reporting requirements.

Joan, the administration intends to proceed into the 88-89 year and beyond in a positive manner. It is our hope and belief that you can and will proceed into the next contract years with a positive, supportive attitude. Future wage increases for you will result upon receipt of positive performance reviews. We look forward to that occurrence.

If you have questions regarding any of the above information, please feel free to contact me at your convenience.

Sincerely,

Gary M. Swalve
Business Administrator

44. That in response to Swalve's letter and to receiving one-half of the normal raise, Goetz sent the following memorandum to Kattman:

To:Dr. Robert Kattman

From:Joan Goetz

Re:Letter from Gary Swalve stating the condition of my salary
for 1988-89 fiscal year

Date:August 1, 1988

I have received the letter from Gary Swalve stating the condition of my salary for the new fiscal year. Although the standard increase for support staff is 5.9%, my increase is set at 2.9%. The letter stated poor job performance as the reason for this very low increase.

I can not accept poor job performance as a valid reason for not receiving the standard increase. My work in the recreation department since I began four years ago has never been questioned before. My years of service with the District has only enhanced my job performance this past year.

Therefore, I must appeal to the School Board and resolve this issue promptly. Please inform me of the date and time of the appointment.

Thank you for your attention to this matter.

cc:Gary Swalve
School Board Members
Support Staff

that Kattman discussed the procedure for appealing her raise with Goetz, informing her that she should make a request to him to have the matter placed on the Board's agenda and that he would follow through on it and see that it was scheduled for a Board meeting; that Goetz contacted other support staff and a Board member to gain support for her appeal and sent the following letter of August 6, 1988 to Board members along with the letter and attachments noted:

August 6, 1988

Dear School Board Members,

Enclosed in this notebook, you will find the letters which both Paula Becker and I received concerning our salaries for the fiscal year 1988-89. Also enclosed are copies of announcements of support staff meetings, minutes, the unfinished proposal, the letter which we sent to the school board announcing our formation and other things which might be of interest.

I will be speaking at our meeting on Monday for both Paula and myself because the set of circumstances is exactly the same for both of us.

My purpose for appearing before the members of the school board is twofold. One is to ask for the standard raise of 5.9%, and the other is to ask that the intimidation which both Paula Becker and I have received, since our involvement with organizing the support staff, be put

to a halt. We both believe that the low increase in our salaries is due to support staff involvement and organizational work rather than poor performance.

If you have the time, please look over the materials contained in this notebook and bring it with you to the meeting. I realize that this is very short notice for you to review the over 100 pages of work contained in this book, but I only learned of the meeting on Thursday afternoon.

Although I do not particularly look forward to the meeting on Monday, I appreciate the fact that you are taking the time from your busy schedules to meet with me. If I felt that there was any alternative, believe me, I would have taken it.

Sincerely,

Joan E. Goetz
Secretary
Department of Recreation

P.S. Please note that second or third pages to letters, memo's, etc. have not been

45. That sometime between August 1 and August 8, 1988, a group of support staff --- most of the members of the JGC, asked to meet with Swalve regarding Goetz' not receiving a full raise and did meet with him for that purpose; that at said meeting, Swalve was asked to relate information regarding Goetz' not receiving the same raise as anyone else, to explain why, and also to provide information regarding Goetz' upcoming meeting with the Board; that in response to said questions Swalve said he would not share information regarding individual raises or personnel matters with anyone other than the affected employe and that he would not provide information regarding Goetz' request for a hearing with the Board; and that sometime prior to August 8, 1988, Swalve and Kattman were advised by Dottai, a secretary at Glen Hills School, and other support staff, that inquiries were made of some support staff with regard to supporting Goetz at her hearing with the Board.

46. That Goetz appeared before Respondent's Board on August 8, 1988; that four Board members, Goetz, Kattman, Swalve and the Board's Attorney, Vetter, were present at said meeting; that at said meeting Goetz made a presentation in support of her request that she be granted a full raise for 1988-89 and that she no longer be harassed by management for her support staff activities; that Kattman made a presentation to the Board in support of the Administration's decision to give Goetz one-half of the raise; that the following notes were used by Kattman in making his presentation and those notes provide a general summary of his presentation:

PRESENTATION FOR APPEAL TO BOARD OF EDUCATION
REGARDING JOAN GOETZ

Joan Goetz is the Secretary to the Director of Recreation.
She has held that position for slightly less than four years.

The position is a Level V classification within six the support staff employment categories.

The District expects business-like personal conduct from all of its employees to maintain harmonious working conditions. As Secretary to the Director of

Recreation, Joan's job is to work directly for Bob Lang and provide support to him as he directs the department.

As part of this role Joan is to perform certain clerical activities, handle specified communication responsibilities, and perform activities in support of the director.

Evaluation is based on clerical competence and the ability to perform support activities for the director.

During the last two year (sic) Joan has had significant problems with the support position of her role.

Joan has demonstrated:

- 1.Lack of positive support for the director and the administration of the district by continually questioning decisions and by failing to follow established procedures.
- 2.Dissatisfaction with her status as secretary, her classification within the support staff, and her salary by continually stating that she is "more than a secretary", by continually demanding that her classification be changed to Level VI, and by repeated statements that her salary is inappropriate.
- 3.Lack of understanding of her role as secretary by stating and performing in a manner that indicates that her position has little to do with supporting Bob Lang.
- 4.Unwillingness to accept decisions of Bob Lang and other administrators by continually demanding changes in status, classification, and salary after appropriate review has been conducted and decisions have been made not to make changes and by constantly questioning Bob's decisions within the Recreation Department.
- 5.Disruptive behavior which has effected the ability of other employees to accomplish their assignments by continually complaining about her concerns and demanding that they support her in her demands.

The problem with which the Board and administration is faced is not the amount of pay increase which Joan Goetz received for the 1988-89 school year. The problem is the determination of progressive discipline action resulting from her inappropriate conduct.

The withholding of half of the normal pay increase for the upcoming year is the fourth step in a progressive discipline program which has included verbal reprimands from Bob Lang, written reprimands from Bob Lang, and conferences with Gary Swalve and myself in which proper performance and behavior has been specified.

Following her annual evaluation by Bob Lang it was determined that Joan had failed to make appropriate adjustments in her behavior and that further corrective action was required. The decisions were made to withhold half of the average increase granted to secretaries because it was felt that Joan was not performing approximately half of her job appropriately.

There is no question in my mind that former decisions were warranted. In addition, I am extremely disappointed in her behavior since July 1. Joan has given no indication that she understands her problems. She has given no indication that she is attempting to remediate the expressed concerns. She has in fact exacerbated the disruption of other employee's work efforts. Joan must make significant changes in her behavior. If these changes are not immediately forthcoming, I will have no other choice but to terminate her employment;

that Kattman related specific instances of what he felt were examples of the behavior the administration felt was inappropriate and instances where Lang had reprimanded Goetz; that Kattman included as such instances, that Goetz had complained about the former Recreation Director and questioned his ability to manage the department, that she had asked for a 26% raise, that she had complained about salary and about job descriptions, that she had contacted an individual Board member about her appeal, that she shared negative information with the public, that she had refused to leave Swalve's office in discussing the recalculation of hours, that she had called the Maple Dale District to ask for their salaries, that she had badgered the assistant school secretary for her salary, that she feels her work is parallel to Lang's and does not like being a secretary, that she does not know when to give up and wants to be Assistant Recreation Director; that Swalve commented that the SSC does not represent the support staff; and that the Board then met in closed session and decided to uphold the decision to give Goetz one-half of the normal percentage pay raise for the 1988-89 school year.

47. That Goetz called Mikyska at approximately 9:00 a.m. on August 9, 1988 to ask her to sign a statement that Goetz did not call her in the fall of 1987 to ask for the Maple Dale secretaries' salaries; that Mikyska refused, telling Goetz that would not be a true statement; and that later the morning of August 9, 1988, Kattman and Swalve met with Goetz to discuss what they expected from her and gave her the following memorandum:

August 9, 1988

To:Joan Goetz

From:Bob Kattman

Subject: Job Expectations

This memo is a follow-up to the meeting with the Board of Education on August 8, 1988. I am putting the information in written form because I want to make

absolutely certain that you understand the expectations we have for you. It is my sincere hope that we can work together to overcome the problems which exist and that a harmonious working relationship can be created.

Whether or not the problems can be overcome is up to you. You must understand our expectations and you must take immediate action to change your behavior. If you fail to do so, I will have no other choice but to terminate your employment.

The expectations we hold for you are as follows:

1. The position available for you within the District is as Secretary to the Director of Recreation. It is a Level V position with a defined job description, and a salary within the range defined for Level V positions. The position will remain as defined for the foreseeable future. You must either accept the position as defined or resign and seek a position with another employer.
2. The most important part of your job as Secretary to the Director of Recreation is to support him in every manner possible so that he can do his job to the best of his ability. This requires that you follow directions and procedures and accept his decisions. It is appropriate to ask questions. It is inappropriate to question him or to respond in a sarcastic manner when informed of decisions.
3. The position of "secretary" within the Department of Recreation is very important. It is important because of the support it provides to the Director. As a secretary you should devote your energies to activities which help the Director carry out his job in a more effective manner. This means that you actively seek to do those things which save him time, increase his flexibility, and allow him to be more creative.
4. The support staff handbook clearly defines channels for addressing concerns. The established channels are to be followed in all situations. Disruptive behavior will not be tolerated. Disruptive behavior includes: Making negative remarks to other employees and community members about your job or about your supervisor, lobbying other support staff members to intervene on your behalf in regard to a reprimand or poor evaluation, and involving yourself in employment related matters of other individual employees.

I strongly hope that you can make the changes required. You have a lot of potential. When I initially hired you and recommended you for your present position, I believed that you could be an excellent secretary. I

still do. I will certainly do all that I can to help you reach this potential.;

that Mikyska reported Goetz' phone call of that morning to her Principal, Jim Sielinski, who in turn called Swalve and informed him of the call; that Swalve then called Mikyska and confirmed that Goetz had called her; and that Swalve sent Goetz the following letter of August 11, 1988:

August 11, 1988

To:Joan Goetz

From:Gary Swalve

Subject: Improper Conduct

It has come to my attention that at approximately 9:30 a.m. on Tuesday, August 9, 1988 you made a telephone call to Jan Mikyska, Assistant Secretary for Maple Dale School, to request that she sign a statement indicating that you had not contacted her last fall regarding topics such as salary, benefits, job vacancies, and the filling of support staff positions within the Maple Dale-Indian Hill School District. Mrs. Mikyska informed you that she could not sign such a statement because it would be a "falsification". She reminded you that you had contacted her - at least twice and perhaps three times - regarding the above topics.

Your call to Mrs. Mikyska is a perfect example of the type of activity which we have notified you is inappropriate. If the call had been made after our 10:30 a.m. conference of the same day it would have been inexcusable. You disrupted your work day and that of an employee of another school district in an attempt to manipulate the facts in regard to an incident for which you were reprimanded! This is not acceptable behavior!

As Dr. Kattman emphasized during our conference at 10:30 a.m. on Tuesday, August 9, 1988:

- (1)You are not to lobby other staff member of either district to intervene on your behalf in regard to a reprimand or poor evaluation at any time.
- (2)You are not to disrupt your work time or that of any other employee to discuss your individual concerns.
- (3)You are not to involve yourself in the individual concerns of other employees. Proper channels exist for review of such concerns without your intervention.
- (4)You are not to disrupt your work time or that of any other employee to attempt to organize employees. This does not, however, prohibit you from engaging in any activity relating to overall support staff concerns or to collective organization on your own time.

I must emphasize that had you made the contact to Mrs. Mikyska following our 10:30 a.m. Tuesday meeting, it would have been cause for termination of your

employment. You must realize that your employment is in jeopardy if you continue acting in this manner!

cc.
Dr. Robert Kattman
Mr. Robert Lang
Personnel File

48. That the letters of August 9, 1988 and August 11, 1988 to Goetz from Kattman and Swalve, respectively, essentially codified the reasons for which Goetz received one-half the percentage wage increase received by the other support staff for 1988-89 and included therein conduct which constituted lawful, concerted activity.

49. That the Respondent's Support Staff Handbook contained the following provision:

PERSONAL CONDUCT AND COMPLAINT PROCEDURE

The District expects business-like personal conduct from its employees to maintain harmonious and safe working conditions. Among the District's expectations are:

1. Prompt and regular attendance.
2. Complete attention and efforts to work matters during work time.
3. Acceptable standards of work quantity and quality.
4. That employees will carry out the instructions of their supervisors.
5. That employees will be physically, mentally, and emotionally fit each working day to do their job.

Failures to meet these expectations will be dealt with individually, based on the seriousness of the infraction, the employee's work record, and history of prior infractions. It is the District's policy to administer discipline fairly and impartially. The basic purpose of discipline is to provide for corrective action and permit the employee a reasonable chance to improve performance.

When an incident comes to a supervisor's attention, the facts and circumstances surrounding the incident will be investigated. Employees will be given an opportunity to explain their actions. Every attempt will be made to clarify misunderstandings and resolve negative situations. However, if it is determined that a rule violation has occurred, disciplinary action will be taken. Serious offenses may lead to immediate discharge.

The Glendale-River Hills School District provides a mechanism for those employees who feel that they have been unfairly treated or disciplined. Employees are to discuss a complaint with their immediate supervisor first. Complaints not resolved at the supervisory level may be referred to the Business Administrator for review and disposition. Complaints not resolved at the administrative level may be referred to the Board for final disposition. Any employee involved in this procedure may request a fellow employee to be present

at any step in these discussions.

50. That by Goetz' involvement in the SSC, her involvement in the memorandum from the SSC to the support staff regarding updating job descriptions, her involvement in the memoranda to Swalve and Kattman on behalf of the SSC regarding requests for salary information, her involvement in drafting and sending the letter of October 28, 1987 to the Board from the SSC, her involvement in requesting a meeting with Swalve on behalf of herself and other support staff regarding the recalculation of their hours and her follow-up memorandum in that regard, her support of Becker's request for a raise and reclassification to Level IV, and by her attempts, along with others, to gain support for her appeal to the Board, Goetz engaged in lawful, concerted activity for the purposes of mutual aid or protection.

51. That Lang became aware of Goetz' and Becker's involvement in the SSC sometime in the fall of 1987; that Swalve and Kattman became aware of Goetz' involvement and leadership role in the SSC at least as early as the November 6, 1987 meeting with the support staff; that Swalve was aware of Goetz' involvement in requesting a meeting on the change in the computation of hours and suspected her to be the author of the memorandum sent following the meeting in July of 1987 on hours; that Lang, Swalve and Kattman were hostile towards Goetz' involvement in the SSC and her actions on behalf of the SSC; that Lang's evaluation of Goetz for the 1987-88 school year, with regard to his written comments that she had a negative attitude, failed to support him as Director, and generated feelings of ill-will, were related to her involvement in the SSC, and motivated, at least in part, by his hostility toward that involvement; that Swalve's recommendation that Goetz receive no pay increase for the 1988-89 school year was motivated, at least in part, by his hostility towards Goetz' actions on behalf of the SSC and other support staff employe concerns; and that Kattman's recommendation that Goetz receive half the normal pay raise of other support staff for the 1988-89 school year was motivated, at least in part, by his hostility towards Goetz' involvement in the SSC and her actions on behalf of the SSC and her activity on behalf of support staff concerns and other employes.

52. That Lang's comments appended to his evaluation of Goetz for the 1987-88 school year that related to her involvement with support staff concerns had a reasonable tendency to interfere with the exercise of rights guaranteed by Sec. 111.70(2), Stats.

53. That the recommendation by Respondent's administration that Goetz receive half of the normal percentage pay raise received by other support staff for the 1988-89 school year, the subsequent adoption of that recommendation by Respondent's Board, and the letters of July 11 and August 9 and August 11, 1988 to Goetz from Kattman and Swalve, had a reasonable tendency to interfere with the exercise of rights guaranteed by Sec. 111.70(2), Stats.

Based upon the foregoing Findings of Fact, the Examiner makes the following

CONCLUSIONS OF LAW

1. That Complainant, by her involvement in the Support Staff Committee and her actions on behalf of said Committee, as well as other activity referred to in Finding of Fact 50, engaged in lawful, concerted activity within the meaning of Sec. 111.70(2), Stats.

2. That Respondent Glendale - River Hills School District, its officers and agents, discriminated against Complainant in violation of Sec. 111.70(3)(a)3, Stats., by attaching negative comments to her performance evaluation for the 1987-88 school year that related to her involvement in support staff concerns, by recommending that Complainant receive, and ultimately awarding to her, half the percentage pay increase received by other of Respondent's support staff for the 1988-89 school year, and by issuing Complainant the letters of July 11, 1988 and August 9 and 11, 1988.

3. That by attaching negative comments to Goetz' 1987-88 performance evaluation that related to her involvement in support staff concerns, by recommending, and approving, that Goetz receive one-half the normal percentage pay raise received by other of Respondent's support staff for the 1988-89 school year, and by issuing Goetz the letters of July 11, 1988 and August 9 and August 11, 1988, the Respondent Glendale - River Hills School District, its officers and agents, interfered with the exercise of rights guaranteed in Sec. 111.70(2), Stats., in violation of Sec. 111.70(3)(a)1, Stats.

Based upon the foregoing Findings of Fact and Conclusions of Law, the Examiner issues the following

ORDER 2/

It is hereby ordered:

1. That those portions of the complaint alleging a violation of Sec. 111.70(3)(a)2, Stats., by the creation and continued existence of the Joint Goals Committee, are hereby dismissed.

1/ Any party may file a petition for review with the Commission by following the procedures set forth in Sec. 111.07(5), Stats.

Section 111.07(5), Stats.

(5) The commission may authorize a commissioner or examiner to make findings and orders. Any party in interest who is dissatisfied with the findings or order of a commissioner or examiner may file a written petition with the commission as a body to review the findings or order. If no petition is filed within 20 days from the date that a copy of the findings or order of the commissioner or examiner was mailed to the last known address of the parties in interest, such findings or order shall be considered the findings or order of the commission as a body unless set aside, reversed or modified by such commissioner or examiner within such time. If the findings or order are set aside by the commissioner or examiner the status shall be the same as prior to the findings or order set aside. If the findings or order are reversed or modified by the commissioner or examiner the time for filing petition with the commission shall run from the time that notice of such reversal or modification is mailed to the last known address of the parties in interest. Within 45 days after the filing of such petition with the commission, the commission shall either affirm, reverse, set aside or modify such findings or order, in whole or in part, or direct the taking of additional testimony. Such action shall be based on a review of the evidence submitted. If the commission is satisfied that a party in interest has been prejudiced because of exceptional delay in the receipt of a copy of any findings or order it may extend the time another 20 days for filing a petition with the commission.

2. That the Respondent Glendale-River Hills School District, its officers and agents, shall immediately:

- a) Cease and desist from interfering with the Complainant or any of its support staff in the exercise of their rights guaranteed in Sec. 111.70(2), Stats.
- b) Cease and desist from discriminating against Complainant for engaging in protected, concerted activity;
- c) Take the following affirmative action which the Examiner finds will effectuate the purposes of the Municipal Employment Relations Act:
 1. Immediately remove from Complainant's personnel file and her 1987-88 Performance Evaluation Lang's attached comments, and any reference thereto.
 2. Immediately remove from Complainant's personnel file the letter of July 11, 1988 from Swalve, the letter of August 9, 1988 from Kattman and the letter of August 11, 1988 from Swalve, and any reference thereto.
 3. Make the Complainant whole by paying her the remaining percentage of the normal raise received by the rest of Respondent's support staff for the 1988-89 school year, retroactive to the date said raise took effect, plus interest at the rate of twelve percent (12%) per year ³/₁₀₀ on that amount from the date said raise took effect to the date it is paid to Complainant, and adjust Complainant's present pay rate accordingly.
 4. Notify all of its support staff employees by posting in conspicuous places in its school buildings and District offices where those employees are employed, copies of the Notice attached hereto and marked "Appendix A". That Notice shall be signed by Respondent's District Administrator and by Respondent's Business Administrator and shall be posted immediately upon receipt of a copy of this Order and shall remain posted for thirty (30) days thereafter. Reasonable steps shall be taken to ensure that said notices are not altered, defaced or covered by other material.

2/ The applicable interest rate set forth in Sec. 814.04(4), Stats.

5. Notify the Wisconsin Employment Relations Commission, in writing, within twenty (20) days following the date of the Order, as to what steps have been taken to comply herewith.

Dated at Madison, Wisconsin this 3rd day of September, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By David E. Shaw /s/
David E. Shaw, Examiner

APPENDIX "A"

NOTICE TO ALL SUPPORT
STAFF EMPLOYEES OF
THE GLENDALE - RIVER HILLS
SCHOOL DISTRICT

Pursuant to an order of the Wisconsin Employment Relations Commission, and in order to effectuate the policies of the Wisconsin Municipal Employment Relations Act, we hereby notify our employes that:

1. WE WILL immediately remove from Complainant Goetz' personnel file and from her 1987-88 performance evaluation the attached comments of Robert Lang, and any references thereto.
2. WE WILL immediately remove from Complainant Goetz' personnel file the letters of July 11, 1988 and August 11, 1988 from Gary Swalve and the letter of August 9, 1988 from Dr. Kattman, and any references thereto.
3. WE WILL immediately make Complainant Goetz whole by paying her the remaining percentage of the normal raise received by the rest of Respondent's support staff for the 1988-89 school year, retroactive to the date said raise took effect, plus interest at the rate of twelve percent (12%) per year on that amount from the date said raise took effect to the date it is paid to Complainant, and adjust Complainant's present pay rate accordingly.
4. WE WILL NOT discriminate against Complainant or any other employes on the basis of their engaging in protected concerted activity.
5. WE WILL NOT in any other or related manner interfere with the rights of our employes pursuant to the provisions of the Municipal Employment Relations Act.

District Administrator

Business Administrator

THIS NOTICE MUST REMAIN POSTED FOR THIRTY (30) DAYS FROM THE DATE HEREOF AND MUST NOT BE ALTERED, DEFACED OR COVERED BY ANY OTHER MATERIAL.

RIVER HILLS SCHOOL DISTRICT

MEMORANDUM ACCOMPANYING
FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER

In her complaint, the Complainant alleges that the Respondent District has committed prohibited practices within the meaning of Secs. 111.70(3)(a)1, 2 and 3, of the Municipal Employment Relations Act (MERA) by replacing the Support Staff Committee (SSC), which the Complainant had helped organize, with the Administrative/Support Joint Goals Committee (JGC) and eliminating her from involvement, and by giving the Complainant one-half of the general wage increase received by the Respondent's other support staff employes in July of 1988. In support of her complaint, the Complainant alleged certain actions by the Respondent's agents, as well as actions by her self and other support staff, that occurred more than one year prior to the filing of her complaint.

In its answer, the Respondent denies that it has committed prohibited practices within the meaning of MERA and has raised several affirmative defenses, alleging that the Complainant has failed to state a claim upon which relief can be granted; that the instant complaint is untimely as the statute of limitations set forth in Sec. 111.70(14), Stats., has run and the Commission has no jurisdiction over claims that precede that statute of limitations; and that Complainant lacks standing to assert any alleged violations of the rights of Respondent's employes. The Respondent also filed a Motion to Dismiss on the basis that the complaint was not timely filed and that the claim in paragraph 13 of the complaint (that Complainant received only one-half of the wage increase given to other of Respondent's secretary) fails to state a claim upon which relief can be granted. Respondent has also requested that it be awarded attorney's fees and costs.

As indicated in the preparatory paragraph of this decision, Respondent's Motion to Dismiss prior to hearing was denied and the parties proceeded to hearing on the instant complaint. The Respondent renewed its Motion to Dismiss with regard to the allegations in paragraphs 4 through 12 of the complaint on the basis the Complainant had failed to satisfy the burden of proof of establishing prohibited practice under the sections allegedly violated, and that Motion was denied at that time.

COMPLAINANT

The Complainant first takes the position that her complaint should not be dismissed on procedural grounds, as the Respondent has requested. The Complainant notes the one year statute of limitations under Sec. 111.07(14), Stats., and asserts that her complaint was filed within one year of her having received the negative evaluation and the denial of a full pay increase. As to Respondent's assertion that employer conduct that had occurred more than one year prior to the filing of the complaint cannot be used to provide the basis for a prohibited practice, Complainant asserts that case law supports the evidentiary use of events occurring prior to the limitations period to support a finding of a prohibited practice that occurred within the limitations period.

Citing, Local Lodge No. 1424, International Machinists vs. NLRB, 362 U.S. 411 (1960); and Axelson Manufacturing Company, 88 NLRB, 761, 766. In Machinists (Bryan Manufacturing Company), the U.S. Supreme Court distinguished between two types of situations:

"The first is one where occurrences within the six-month limitations period in and of themselves may constitute, as a substantive matter, unfair labor practices. There, earlier events may be utilized to shed light on the true character of matters occurring within the limitations period; and for that purpose Section 10(b) ordinarily does not bar such evidentiary

use of anterior events. The second situation is that where conduct occurring within the limitations period can be charged to be an unfair labor practice only through reliance on an earlier unfair labor practice. There the use of the earlier unfair labor practice is not merely 'evidentiary,' since it does not simply lay bare a putative current unfair labor practice. Rather, it serves to cloak with illegality that which was otherwise lawful. And where a complaint based upon that earlier event is time-barred, to permit the event itself to be so used in effect results in reviving a legally defunct unfair labor practice." Id. at 417, 4 L. Ed. at 838.

It is asserted that the instant complaint clearly falls into the first situation. The Complainant received the negative evaluation and one-half pay raise, which constitutes the prohibited practice, and Complainant introduced evidence that occurred prior to the limitations period to illuminate those matters occurring within the limitation period. Citing, Axelson Manufacturing Company, at 766. Thus, the evidence supports a finding that the charges involving the negative evaluation and one-half pay raise are timely filed.

As to the charge that Respondent has interfered with the formation or administration of an employe organization in violation of Sec. 111.70(3)(a)2, Stats., by creating and maintaining the Joint Goals Committee (JGC), that conduct constitutes a continuing violation, thereby making the complaint in that regard timely filed. It is asserted that the Respondent continued the JGC from January of 1988 through at least March, 1989 or approximately within one month of the date of the filing of the complaint. Complainant likens this aspect of the case to the situation in Waukesha County, Dec. No. 20138-B (Houlihan, 5/83). There the examiner found that the complaint was timely where it was filed 13 1/2 months from the time of the first fair share deduction, based on the reasoning that the complaint concerned a continuing series of incidents (bi-weekly deductions) which allegedly constituted a violation. Similarly, each meeting of the JGC constituted a separate act that interfered with the ability of the Support Staff Committee (SSC) to exist as an independent organization. Complainant distinguishes this case from that in Clayton School District, Dec. No. 20477-B (McLaughlin, 10/83), where the examiner held the complainant did not establish the occurrence of any act which in itself constituted a prohibited practice and which fell within the limitations period, and thus, dismissed the complaint as untimely. Complainant also asserts that policy reasons favor a finding of a continuing pattern of conduct by Respondent which brings the allegations within the limitations period, asserting that the limitations period specified in Sec. 111.07(14), Stats., was not enacted as a statute of limitations for the protection of employers, rather, its objectives are to protect the Commission from having to decide the merits of stale claims and to discourage the filing of such claims. Citing, City of Madison, Dec. No. 15725-B, Dane Co. Cir. Ct., 6/23/80. This case does not involve a stale claim, rather, it is challenging an ongoing pattern of conduct by Respondent. Further, Complainant testified to her attempts to immediately seek legal representation after the board meeting of August, 1988 and attempted to pursue her claim initially without the backing of any labor organization. Complainant asserts that the Commission possesses the discretion to decide that the issue is timely on the basis of a continuing pattern of conduct and, for policy reasons, should so decide.

With regard to the merits of the complaint, Complainant asserts that the negative evaluation she received and the denial of the full pay raise constitute interference in violation of Sec. 111.70(3)(a)1, Stats., and discrimination in violation of Sec. 111.70(3)(a)3, Stats. With regard to interference, Complainant asserts that the Respondent's conduct interfered with the exercise of her statutory rights under MERA and thereby violated

Sec. 111.70(3)(a)1, Stats. This case involves the right of self-organization and the right to engage in lawful, concerted activities for the purpose of mutual aid or protection guaranteed by Sec. 111.70(2), Stats. Both Sec. 111.70(2) and 111.70(3)(a)1 speak to the rights of employees without reference to the involvement or even the existence of a union. Citing, Fennimore Community Schools, Dec. No. 18811-A (Malamud, 1/83); and Juneau County (Pleasant Acres Infirmary), Dec. No. 12593-A (1/75), 12593-B (1/77). Motive is not a necessary element for establishing an independent violation of Sec. (3)(a)1, rather, any action which reasonably tends to interfere with the exercise of employee's rights will violate this section. Citing, City of Brookfield (Library), Dec. No. 20702-A (Nielsen, 7/84). There is ample evidence in the record to establish an independent violation of this statutory section given the evidence of harassment and intimidation Complainant endured at the hands of the administration by way of surveillance, trumped-up charges of dereliction of duties, an unfair written evaluation, the denial of a full pay raise, and threats of termination of employment if Complainant did not change her behavior.

With regard to the alleged discrimination in violation of Sec. 111.70(3)(a)3, Stats., Complainant asserts that Respondent was aware of Complainant's protected activity at the time it issued a negative evaluation to her and reduced her normal pay raise by one-half. Complainant asserts that the record establishes by a clear and satisfactory preponderance of the evidence that she engaged in protected, concerted activity, that the Respondent was aware of said activity and hostile to it, and that Respondent's actions were motivated, at least in part, by such hostility.

Complainant asserts that Sec. 111.70(2), Stats., does not require the presence of a formally recognized or certified labor organization. The record clearly demonstrates that she engaged in various forms of protected concerted activity by participating in activities to improve wages, hours and working conditions for herself and other secretaries. Specifically, Complainant notes her initial request for a raise which resulted in a change in the wage categories to her detriment, her efforts to represent the interest of the support staff on the Staff Incentive Committee (SIC), Complainant's organizing and chairing the first general meetings of the entire support staff in June, August and September of 1987, (wherein it was decided to form a smaller committee of representatives of each salary level amongst the support staff for the purposes of bringing "grievances, concerns, questions, suggestions together regarding our employment, salaries and benefits"), and Complainant's efforts in the position of coordinator/consultant to this Support Staff Committee (SSC). The purpose of the SSC was to review salaries, present proposals for change, hear grievances, plan meetings with guest speakers and review comparative studies of salaries and benefits from other districts. In her role as coordinator/consultant to the SSC, Complainant distributed informational materials regarding salaries, suggested issues to be discussed, drafted correspondence to the administration and the Board, including the letter of October 28, 1987 to the Board introducing the SSC and explaining its purpose, as well as requested that the administration provide salary information. Complainant asserts that in addition to those activities, she also participated in other protected, concerted activities such as the memo of July 13, 1987 to Swalve she authored and which contained the signatures of other support staff members. That memo expressed their concern regarding the changes in the hourly wage rates for the 1987-1988 school year and requested a meeting with Swalve. A meeting was held with Swalve and the support staff in July of 1987. Complainant followed up the meeting with an extensive memo to Swalve on behalf of the staff outlining the results of the meeting and sent copies of the letter to Kattman and the Board members. Complainant also assisted Becker in her request for a classification change, meeting with members of the administration in late July of 1987. Complainant was also involved in the controversy involving the termination of a support staff employe in the Respondent's Business Office. In that matter Complainant and Becker were accused of

spreading rumors regarding the termination and hiring of a replacement. In a meeting held by Swalve with the support staff to discuss the matter, Complainant spoke out at the meeting and suggested contacting the terminated employe to get her side of the story. Complainant also notes the weekly meetings her and Becker requested with Lang beginning in March of 1988 to discuss issues that arose in the Recreation Department, which meetings they set up for their "self-protection" because they had been threatened by Lang that he was "documenting" on them. In May of 1988, Complainant received her first evaluation from the Respondent which contained unfavorable comments and references to her concerted activities. Complainant responded to the evaluation as well as the subsequent denial of a full pay raise.

Complainant asserts that the Respondent was aware of her protected activity and demonstrated hostility towards that activity by issuing the negative evaluation and by reducing her pay raise by one-half. The record demonstrates that Lang, Kattman and Swalve, as well as members of the Board, were unquestionably aware of Complainant's protected, concerted activities. The record also is replete with examples of Respondent's hostility towards those protected, concerted activities relating to Complainant's organizing the support staff. Swalve's letter of July 11, 1988 to Complainant notifying her that she would receive only half the average increase for the 1988-89 school year indicated that this action was based on her receiving a less than favorable evaluation for the 1987-88 school year. That negative evaluation alluded to Complainant's concerted activities, stating:

"Concerns which surfaced during the year usually focused on issues relating to support staff involvement, job evaluations, job descriptions, compensation and administrative policies and procedures.

* * *

Often comments were made on behalf of other employees, even though it was often made clear that she should only represent her concerns." (Complainant Ex. 1, p. 88-89)

Complainant contends that there is no evidence that Complainant engaged in protected activities during work time. While she did make comments "on behalf of other employes", that protected, concerted activity occurred off-duty, and her involvement with the SSC never interfered with her job responsibilities. Respondent's allegations in that regard were never substantiated and Lang failed to mention these issues to Complainant prior to giving her the negative evaluation. In fact, Lang did not recommend the less than full increase for Complainant, Swalve did. Complainant asserts that it was Swalve's job to keep the support staff from organizing and gaining a greater voice in their working conditions. Lang took his orders from Swalve and Kattman and was pressured by them to cite protected, concerted activity as a reason for the unfavorable evaluation. The other criticisms contained in Complainant's evaluation were convincingly rebutted by her. Complainant argues that the evaluation was a collaborative effort spearheaded by Swalve and carried out by Lang. On at least two occasions, Lang indicated that he was documenting information. The first situation occurred in December, 1987 with regard to Complainant's being late returning to the office and referred to prior verbal warnings which Complainant testified she had never received. The second situation occurred in March of 1988. Complainant and Becker had requested to meet with Lang to discuss work problems and Lang indicated to them that he was documenting on them and indicated that he was being pressured from the administration to do so. In the 1987-88 evaluation, Lang commented that Complainant was "very dependable", but regarding attitude, Lang commented that Complainant displayed "negative behavior and attitudes". In testimony

explaining the reasons for writing such comments, Lang testified that ". . . her involvement in this committee (SSC), I think this aided or helped her negative attitude in the office." Lang was unable to document any examples of Complainant's demonstrating "a negative attitude"; however, Lang did state that he knew Complainant was the leader of the SSC for the 1987-88 school year. Regarding her involvement in that committee, Lang testified "I believe that that does not assist with her general supportive nature in the office." Lang also referred to alleged conversations between Complainant and Becker in the office regarding support staff business, but was unable to point to a single instance in which he was certain Complainant was discussing support staff activities during work time. He was also unsure if he overheard the whispering and conversations during Complainant's break time or during work time. Further, Lang failed to notify Complainant of his displeasure with the alleged whispering and conversations until she received her evaluation. Complainant responded to the negative evaluation in her May 12, 1988 letter to Lang and Kattman, convincingly rebutting the criticism contained in the evaluation; however there is no evidence that her response was considered by the Respondent in its decision to give Complainant half an increase. Rather, Respondent's message to Complainant and other support staff was that they would be treated harshly if they did not go along with the administration.

Swalve testified that he recommended Complainant receive a zero increase based on Lang's evaluation of her. Although he initially denied it, Swalve's testimony suggests that her support staff activity was, in fact, part of the reason for his decision:

. . .

Q Did Joan's requests on behalf of the Support Staff Committee influence you in any way on your view toward whether or not Joan was deserving of the pay raise?

A No. The only thing that her involvement in the support staff did was provided me with other opportunities that I had had communication with Bob where I knew -- or excuse me with Joan -- that I knew that she was not supporting Bob or the administration. (T./ 1231-1232). (Emphasis added)

Complainant contends there is no evidence in the record of any communication between her and Swalve in which she intimated that she was not supporting Lang.

Raising questions concerning support staff with the administration is not a legal basis for denying a full pay raise. Complainant asserts that the process by which it was determined that she would receive only half of a raise was based on placating Swalve with his bias toward her because of her organizing activities.

Complainant notes that she appealed the pay raise issue to the Board on August 8, 1988 and that she was requested to attend a meeting the following day with Swalve, Kattman and Lang. At that meeting, Complainant's general performance was discussed and she was given a memo informing her that "disruptive behavior will not be tolerated." Kattman explained that such behavior is "lobbying other support staff members . . . and involving yourself in employment related matters of other individual employees." The memo threatened that Complainant could be terminated if she failed to "change her behavior."

Complainant notes that the third element of proving a discrimination charge involves proving that the adverse treatment was motivated, at least in part, by hostility toward Complainant's protected activity. According to

Complainant, proof of motive is dependent upon the credibility of Respondent's explanation of its conduct. It is asserted that Respondent could not offer a credible explanation for either the negative evaluation Complainant received or the denial to her of a full raise, rather, the reasons offered were pretextual.

Complainant asserts that in all the major areas of disputed testimony, Complainant was more credible than Respondent's witnesses. With regard to the evaluation, Lang was unable to explain why Becker received a good evaluation in the late summer of 1988 and Complainant did not. Lang conceded that Becker's attitude changed only slightly, yet she received a very good evaluation after she indicated she was leaving the department. Becker, who is no longer employed by Respondent and has nothing to gain, was a convincing witness testifying that Lang had issued her a new, good evaluation because he felt guilty about giving her the poor evaluation earlier. Another area of dispute was the alleged call to Mikyska in August of 1988 from Complainant. It was Becker, not Complainant, that contacted Mikyska and Becker's testimony was far more persuasive than that of Mikyska, who conceded she opposed the idea of forming a union and had heard Complainant was trying to do so. Another area was the fabricated complaints against Complainant in Kattman's presentation to the Board in August of 1988. Complainant asserts that it was filled with misrepresentations and distortions. As an example, the February of 1988 allegation that Jimmy Jacobson reported that Complainant was making inappropriate and sarcastic remarks about Lang was shown to be a distortion of the facts by Lang. Jacobson's testimony refuted Lang's and indicated that he had not reported that to Lang or anyone else. According to Complainant, this demonstrates that Lang fabricated reports about Complainant so that Kattman and Swalve could use them later when it became necessary. Complainant also attacks Swalve's testimony that he was badgered by Complainant in his office regarding the recalculation of hours issue and had to ask her to leave. Complainant denied such a meeting took place and Swalve, who testified he kept a detailed calendar, was unable to produce a calendar that would support his testimony in this regard. Complainant credibly testified that she did not meet one-on-one with Swalve in that situation and Complainant's diary of important meetings with management also contained no reference to such a meeting. Hence, her version is more believable than Swalve's.

Complainant concludes that the Respondent's motive for taking the adverse action against her was motivated, in part, by its hostility toward her organizing activities. Complainant requests as relief for the interference and discrimination, that the Respondent be ordered to purge its records of the negative evaluation of the Complainant and to pay Complainant the full wage increase retroactive, with interest.

The Complainant also contends that the creation of the JGC interfered with the administration of the SSC in violation of Sec. 111.70(3)(a)2, Stats. Complainant notes that the October 28, 1987 letter to the Board from the SSC formally announced that committee as a representative of the secretaries. After receiving the letter, Swalve sent a memo dated November 3, 1987 to all support staff and "strongly urged" their attendance at a November 6 meeting. As stated in the memo, the meeting's function was to discuss communication and to answer questions. Testimony demonstrates that the true purpose of the meeting was to chastise the SSC for its letter to the Board. Complainant testified that at the November 6 meeting both Swalve and Kattman brought up the SSC's use of certain words in the letter, such as "collectively", and questioned whether they were forming a union. That testimony demonstrated Respondent's hostility towards the SSC. Kattman requested at the meeting that the SSC divulge the names of its members and the SSC subsequently responded by sending a memo identifying each member of the Committee by name. Complainant was identified as the "Coordinator" of the SSC. Later in November of 1987, Swalve announced he would be forming a new committee of support staff employees under his direction. Swalve divided the support staff into four different groups and in mid-December of 1987 met with each group and explained that he would be forming his own committee and wanted representatives from each of

these four groups. Swalve also indicated in no uncertain terms that the SSC was not representative of the support staff and that the administration would not recognize it as such. Complainant's testimony in this regard was supported by that of Patnaude, who was also a member of the SSC and later, the JGC. With regard to the JGC, Patnaude testified that there was no voting procedure utilized and that Swalve "had the last say on everything that we did", and that he controlled the issues that could be raised at the meetings.

Complainant contends that the Respondent's actions in refusing to recognize the SSC and in creating the employer-dominated JGC, subverted the SSC and destroyed it. Complainant asserts in this regard that the administration never recognized or cooperated with the SSC, refused to answer the SSC's requests for salary information, told support staff that the SSC was not representative of the support staff and that it would only recognize the JGC, verbally intimidated SSC members and usurped the leadership of the SSC by staging the so-called election of representatives and by manipulating the representatives of the SSC to become members of the JGC, except for Becker and Complainant. Complainant cites Unified School District No. 1 of Racine County, Wisconsin, Dec. No. 15915-B (12/77), as supporting its conclusion that Respondent's conduct with regard to the demise of the SSC and the establishment and control of the JGC constitutes "interference" in violation of Section 111.70(3)(a)2 and 1, Stats. Complainant asserts that in this case there was a fledgling organization, the SSC, which had as its goal mutual aid and protection, rather than recognition as a full-blown labor organization. It is asserted that MERA gives protection to such organizations to be free of interference and/or domination by an employer. While Respondent was not obligated to recognize the SSC as the exclusive representative of the support staff for the purposes of collective bargaining, it did have a duty to refrain from interfering with the organization of the SSC. As a remedy, the Respondent should be required to disband the JGC and ordered to cease and desist from interfering with the SSC or any other employe organization whose purpose is to provide mutual aid or protection to employes.

RESPONDENT

The Respondent first takes the position that conduct occurring prior to April 26, 1988 cannot be the basis for a prohibited practice complaint. In support of its position, Respondent notes that a one-year statute of limitations period applies to all prohibited practice actions filed before the Commission. Citing, Section 111.70(4)a, and Section 111.07(14), Stats. Respondent asserts that the Commission has strictly applied the one-year statute of limitations. Citing, Racine Education Association v. Racine Unified School District, Decision No. 22557-A (Honeyman, 6/85); Katz v. City of Madison, Decision No. 15725-B (WERC, 6/79), aff'd, 79-CV-3326 (6/23/80). In Katz the examiner dismissed a complaint because it was filed 366 days after the alleged discriminatory conduct and the examiner's decision to dismiss was affirmed by the Commission. In this case the complaint was filed on April 26, 1989; however, all but one of the factual allegations in the complaint occurred prior to April 26, 1988. Paragraphs 4 through 12 of the complaint allege a course of conduct on the part of the Respondent which occurred wholly in 1987.

Irrespective of the merits of those allegations, conduct occurring prior to April 26 1988 cannot provide the basis for a prohibited practice complaint. The Examiner cannot consider prohibited practices occurring more than one year before the filing of the complaint because of lack of jurisdiction, and it is, therefore, necessary to dismiss those portions of the complaint.

Respondent next takes the position that no basis exists for a finding of prohibited practice within the one year period prior to the filing of the complaint. Respondent asserts that paragraph 13 of the complaint does not allege that Respondent took any action against Complainant aside from giving her a smaller wage increase in the summer of 1988, and fails to allege any conduct during the one-year period before the complaint was filed which would

provide the basis for a prohibited practice. In this regard, Respondent asserts that eliminating the prohibited practices alleged in paragraphs 4 through 12 of the complaint results in eliminating the basis for finding the alleged prohibited practice that is set forth in paragraph 13. Respondent cites Thompson v. School District of Clayton, Decision No. 20477-B (McLaughlin, 10/83) where the examiner stated:

The most persuasive guide for assessing the Complainant's continuing violation theory of timeliness is a decision of the United States Supreme Court involving the Bryan Manufacturing Co. (Footnote omitted). In that case, the Court assessed the significance of events falling outside of the relevant statutory limitations period (i.e., Section 10(b) of the National Labor Relations Act) by distinguishing two types of situations. The two situations, and the effect of each situation, were detailed thus:

. . .The first is one where occurrences within the .
. . . limitations period in and of themselves may constitute, as a substantive matter, unfair labor practices. There, earlier events may be utilized to shed light on the true character of matters occurring within the limitations period; and for that purpose Sec. 10(b) ordinarily does not bar such evidentiary use of anterior events. The second situation is that where conduct occurring within the limitations period can be charged to be an unfair labor practice only through reliance on an earlier unfair labor practice. There the use of the earlier unfair labor practice is not merely "evidentiary," since it does not simply lay bare a putative current unfair labor practice. Rather, it serves to cloak with illegality that which was otherwise lawful. And where a complaint based upon that earlier event is timebarred, to permit the event itself to be so used in effect results in reviving a legally defunct unfair labor practice.

Respondent applies the above analysis to paragraph 13 of the complaint and concludes that there is nothing in that paragraph to substantiate a prohibited practice beyond the fact that Complainant received less of an increase for the 1988-89 school year. That allegation rises to the level of a prohibited practice only if the events occurring in 1987 are considered. Respondent asserts that in the absence of independent allegations of statutory violations occurring within the one-year limitation period, Complainant cannot use the prior conduct to substantiate her claim. Citing, Stubner v. Village of Hartland, Decision No. 20369-A (Honeyman, 11/83). The allegations contained in paragraphs 4 through 12 of the complaint are time specific and do not constitute continuing violations. All of the conduct upon which Complainant based her case both commenced and concluded prior to April 26, 1988. It is clear from the record that the SSC expired no later than January 20, 1988 and neither the complaint, nor the record, provide any indication that Respondent took any action to interfere with or dominate the SSC after that date. The same can also be said with regard to Respondent's actions toward the Complainant. Hence, the Examiner cannot find any prohibited practices based on conduct occurring more than one year prior to the filing of the complaint when such conduct does not constitute a continuing violation. Moreover, the Examiner cannot base a determination that Respondent committed a prohibited practice by giving the Complainant less of an increase upon conduct occurring outside the one-year statute of limitations. Respondent asserts that Complainant has failed to allege or prove in paragraphs 4 through 12 any misconduct occurring within the one-year statute of limitations period that is

applicable in this proceeding. Paragraph 13 of the complaint does not, in and of itself, constitute a prohibited practice, since it relies totally upon conduct occurring more than one year prior to the filing of the complaint to provide a basis for the alleged prohibited practice. Thus, Complainant has failed to allege any conduct within the one-year statute of limitations period which constitutes a prohibited practice and therefore the Commission lacks jurisdiction under Section 111.07(14), Stats., and the complaint must be dismissed.

Next, Respondent asserts that the Commission has long held that the Complainant bears the burden of proving by a clear and satisfactory preponderance of the evidence that the municipal employer engaged in unlawful discrimination violative of Section 111.70(3)(a)3, Stats. Citing, Nekoosa School District, Decision No. 25455-A (Gratz, 5/88). That section relates directly to Section 111.70(3)(a)1, since a violation of (3)(a)3 is considered to be derivative interference under the former section. The Commission requires that Complainant present "substantial evidence" that convinces the trier of fact to a reasonable certainty that all the required elements of the prohibited practice claim are present. Respondent asserts that Complainant has failed to satisfy her burden of proof for any of the required elements in a prohibited practice claim. The Commission has held that in order to establish a violation of 111.70(3)(a)3, Stats., Complainant must demonstrate that:

- (1) she was engaged in protected activities;
- (2) the Respondent knew of her involvement in said activities;
- (3) the Respondent was hostile toward Complainant because of said involvement; and
- (4) the Respondent's actions were, in part, motivated by hostility towards the Complainant's participation in said protected activities.

Citing, Brown County, Decision No. 17258-A (WERC/80), LaCrosse County (Hillview Nursing Home), Decision No. 14704-B (WERC, 7/78), aff'd Dane Co. Cir. Ct. (1980). If Complainant fails to meet her burden of proof and substantiate each of the four elements, no violation of either Section 111.70(3)(a)1 or 3, Stats., can be found. Citing, Village of Union Grove, Decision No. 15541-A (Davis, 2/78) and Waukesha County, Decision 18402-C (Crowley, 1/82).

Respondent asserts that a threshold issue is whether the Complainant was engaged in "protected activities" within the meaning of the statute. The evidence must demonstrate that Complainant's activity is related to "collective employe interests and is not essentially personal activity." Citing, Drummond Integrated School District, Decision No. 15909-A (Davis, 3/78). Respondent contends that in this case Complainant was primarily involved in personal activity for the sole purpose of increasing her own salary, and at most was only engaged in limited concerted activity. Respondent asserts that Complainant's long-standing attempts to gain a change in title and salary increase were solely for her individual gain and had no direct relationship to the rights of the other employes. When an individual's pursuit of personal pay increases bears no direct relationship between that person's personal protest and the rights of other employes, no concerted activity can be found. Citing, National Wax Company, 25 NLRB 1064, 105 LRRM 1371 (1980). In National Wax Company, the National Labor Relations Board (NLRB) held that the employe's renewed request for a raise went beyond reasonable efforts in that he ignored the answers given and continued to harass the employer. The Board found that since the complainant employe had not proved he was acting with the authority of other employes, no concerted activity was found to be present. Respondent likens the situation in National Wax Company to the situation involving the

Complainant, asserting that her efforts to secure a wage increase and title reclassification were unreasonable. The record demonstrates that Complainant repeatedly refused to accept the Respondent's decisions and in her extreme attempts to secure additional individual benefits, Complainant went beyond the standard practice when she attempted to deal directly with the Board on the matters. Complainant claims that she was engaged in protected activities throughout that time; however, the evidence shows that any alleged protected activities were minimal and involved only a few meetings and letters during a very limited time span. The evidence clearly demonstrates that Complainant's efforts were intended solely for her own benefit and there is insufficient evidence to support her claim that she was acting with or on the authority of other employees throughout her campaign to secure individual benefits. Rather, the record indicates that Complainant was reported by other employees as being hostile and making inappropriate comments about other employees. Respondent concludes that Complainant has failed to establish by a clear and satisfactory preponderance of the evidence that her activities were related to "collective employee interests", as opposed to personal activity. Complainant has also failed to demonstrate that she was acting on the authority of other employees and therefore has failed to satisfy the threshold issue that she was engaged primarily in protected activities.

As a second element in proving employer discrimination due to Complainant's participation in alleged protected activities, Complainant must establish that the employer knew of those activities. The employer's knowledge can be shown by direct evidence or inferred from the record as a whole. Respondent asserts that in this case no direct evidence was presented to establish that Respondent had any knowledge of the alleged protected activities until late October of 1987, when it received a copy of an anonymous letter to the Board from the "Support Staff Committee". By the point at which Respondent finally learned of the existence of the SSC, the activities of that Committee had virtually ceased, the only activity of the group subsequent to that point being a single meeting with Respondent. Respondent subsequently has had no knowledge of any further activity undertaken by the group. Since there is no direct evidence establishing that Respondent knew of the alleged concerted activities prior to the time the activities were discontinued, it must be determined whether it can be reasonably inferred from the record that Respondent knew of the activities. The only activities of which Respondent was aware were the Complainant's continuous pursuits of individual benefits, and there is nothing in the record to suggest or support an inference that Respondent knew of any concerted activity undertaken by Complainant other than for individual purposes.

The third element that Complainant must establish to prove alleged discrimination is that Respondent was hostile toward Complainant's alleged concerted activities. The only direct evidence of animosity Complainant offers is the fact that Respondent initiated a separate staff committee which Complainant alleged was for the purpose of replacing the SSC and eliminating her leadership role in that group. Respondent asserts that allegation completely misstates the purpose of the committee (JGC) formed by Respondent. The JGC was not designed to replace the SSC, nor was it an attempt to restrict the activities of the SSC, rather, the JGC was formed by management as a communication tool enabling employees to deal directly with the Respondent. Citing NLRB v. Scott Fetzer Company, 691 F2d. 288, 111 LRRM 2673 (6th Circuit, 1982), Respondent asserts that courts have held that such groups, viewed as nothing more than a communication tool, may be supported by the employer without a finding of employer interference with employee rights. It is asserted that the JGC could easily have co-existed with the SSC had the latter continued to exist; however, the SSC ceased to function by that time due to lack of employee interest. There is no other direct evidence in the record to establish such animosity and no testimony that Respondent ever communicated any hostility about Complainant's involvement in the SSC. Further, based on the entire record, no reasonable inference can be drawn that Respondent was hostile to

Complainant's activities. As noted earlier, Respondent had no knowledge of Complainant's alleged protected activities until after those activities had ceased, except for the one meeting held at Respondent's suggestion. Thus, the Complainant has failed to show by a clear and satisfactory preponderance of the evidence that there was any animosity on the part of Respondent's administrators toward Complainants' activities.

Respondent contends that the wage increase received by Complainant for the 1988-89 school year was based solely on the poor job she did in handling the supportive aspect of her position. While Section 111.70(3)(a)3, Stats., protects an employe engaged in certain protected activities from discriminatory treatment by an employer, this does not insulate an employe from discipline or discharge for poor performance, including patently insubordinate behavior. Citing, Lake Geneva Union High School District, Decision No. 17939-A (Houlihan, 4/82). In this case, the record demonstrates that Complainant's wage increase for the 1988-89 school year was based solely on the poor job she did with regard to the supportive aspect of her position, and her poor performance in this area began well in advance of her participation in any alleged protected activity. According to Respondent, beginning in June of 1985, Complainant commenced what turned out to be a three-year campaign to alter her job duties and classification, and during that campaign refused to accept her role and failed to perform the supportive aspects of her position. Respondent cites instances during that time where it is alleged that Complainant was put on notice of her shortcomings regarding the supportive aspects of her position and instances where she was allegedly reprimanded by Lang for her failure to perform in that regard, as well as other areas where she failed to satisfactorily perform. Respondent alleges a series of written and verbal reprimands, many involving Complainant's attitude towards Lang and failure to follow his directions. Respondent also alleges that during that time Complainant continued to press for a reclassification to a higher level and a new job title of "Manager/Bookkeeper". When advised by Kattman that her levels of confidentiality and responsibility did not warrant such a reclassification, Complainant continued to refuse to accept that decision. As a result of those problems, Complainant and Kattman met in March of 1988 and during the conversation Complainant reiterated that she felt she did not work for Lang, but with him. When told by Kattman that she did not understand the support requirements of her position and was instructed to obey the rules and follow the directions and to accept her status as secretary, Complainant was again argumentative and did not accept what she was told.

Respondent asserts that the foregoing, as well as the Complainant's demeanor and attitude at hearing, provide tangible evidence of the problems that Respondent experienced in dealing with the Complainant in getting her to understand and accept her job and the supportive aspects of her position.

Respondent notes Lang's evaluation of Complainant prepared in May of 1988 and the attached commentary that addressed the aforementioned problems. Based upon that evaluation and the continuing problems that Kattman, Swalve and Lang experienced with the Complainant during the previous year, Kattman decided that Complainant should receive approximately one-half the wage increase granted to the other secretarial employes as a compromise position after reviewing the situation with Swalve and Lang. Kattman testified that upon reviewing the evaluation, he decided that there were two parts: the clerical duties and work responsibilities in the department and the supportive nature to the Director of Recreation. He concluded that Complainant had done a very good job with the clerical duties, but a very poor job with the supportive aspect of her job.

Respondent asserts that a review of the events that led up to the lesser wage increase in July, 1988 demonstrates that the conduct and behavior of the Complainant and the reactions and responses of the Respondent were consistent throughout the period from June of 1985 through July of 1988. Respondent did not alter its approach or responses to Complainant as a result of her

involvement in the SSC. Further, even though it was not required, Respondent followed progressive discipline with the Complainant, and it was only after numerous verbal and written reprimands and conferences failed to eliminate the problem that Respondent resorted to the implementation of the lesser wage increase. Respondent asserts that with regard to the problems identified during the period of June of 1985 to July of 1988, Complainant has either denied that the event took place, disagreed with the testimony regarding the event or provided her own rationalization for her conduct. She did not accept a single incident, irrespective of whether it occurred before or after her involvement in the SSC. Respondent argues that this must mean that Complainant wants the Examiner to believe that there was some nefarious scheme developed by Respondent against Complainant in July of 1985 that culminated in the one-half wage increase in July of 1988. If that is the case, then the one-half wage increase had nothing to do with Complainant's involvement in the SSC. If that is not the case, and Complainant believes that the one-half wage increase was totally attributable to her activities in the SSC, then she cannot reconcile the fact that the Respondent engaged in consistent conduct for three years, two of which were prior to her ever becoming involved with the SSC.

With regard to the allegation that Respondent dominated or interfered with a labor organization in violation of Section 111.70(3)(a)1 and 2, Stats., Respondent asserts that the SSC did not constitute a labor organization within the meaning of Section 111.70(1)(h), Stats. That statutory definition defines a labor organization as:

An employe organization in which employes participate and which exist for the purpose, in whole or in part, of engaging in collective bargaining with municipal employers concerning grievances, labor disputes, wages, hours or conditions of employment (emphasis added).

It is asserted the Commission has stated there are two essential elements in this definition: 1) employe participation, and 2) a purpose of bargaining over wages, hours and working conditions. Citing, Kewaunee County, Decision No. 21624-D (WERC, 5/85); Brown County, Decision No. 19891 (WERC, 9/82). Complainant has failed to prove either of these necessary elements. Respondent asserts that by Complainant's own admission the purpose of the support staff meetings in the summer of 1987 was discussed as activities of the Staff Incentive Committee, and that the references in the minutes of the June, 1987 meeting to "proposals and recommendations" referred to the staff incentive issue and was an outgrowth of Complainant's activities on that committee. This was also the case for the meetings of the support staff held in August and September of 1987 where the discussions were primarily related to the Staff Incentive Committee. Up to that point in time "employe participation" had nothing to do with collective bargaining. Respondent asserts that while the format has changed at subsequent meetings, there was never an intent to engage in collective bargaining with Respondent. It asserts that at the September 24, 1987 meeting, 11 out of the approximately 38 support staff, or less than one-third, were present. This minority group unilaterally decided to form a "support staff representative committee" without input from the remaining 27 employes. This committee identified its possible functions which consisted mainly of providing a forum for discussions. Respondent asserts that the minutes of the meeting do not even indicate that Complainant was selected to be a member, rather, it appears that she appointed herself to be the "coordinator/consultant." Respondent also asserts that despite the references to an elected committee, no election ever occurred. Respondent also asserts that the SSC continued to lack any specific direction or goals and that it was not until the October 27th meeting that the SSC considered having "input" to salary decisions made by the Board and agreed to send a letter to the Board introducing itself. According to Respondent, that letter did nothing more than indicate the SSC's existence and that as of October 28, 1987 the SSC had not decided to engage in collective bargaining or indicated any desire to do so.

At the November 6, 1987 meeting of the support staff with Kattman and Swalve, no one indicated that the purpose of the SSC was to negotiate with Respondent. Instead, a number of employes indicated their lack of interest in such activity. At the meeting, Swalve and Kattman told the employes that the Respondent would not voluntarily recognize the SSC, but that the employes could make their own choice as to how to proceed. Subsequent to that meeting the activities of the SSC diminished to no more than an occasional memo generated by the Complainant. A subsequent memo from the SSC to the support staff, relating to Complainant's activity on the Staff Incentive Committee, for the first time also made available to all support staff the minutes of the SSC meetings. While that memo indicated that the purpose of the SSC was to "represent" staff, it did not specify how or for what purpose. Respondent concludes that after it became aware of the SSC by the letter of October 28, 1987 to the Board, and after the meeting with support staff on November 6, the SSC thereafter took very little action and did nothing to indicate that it was actually engaged in or attempting to represent or bargain collectively for the support staff. According to the Respondent, the SSC was nothing more than a "discussion group" that apparently folded due to lack of interest after its meeting of January 20, 1988. There being no evidence to support Complainant's allegation that the SSC constituted a labor organization within the meaning of the statutes, there can be no violation of Section 111.70(3)(a)2, Stats.

Respondent argues in the alternative that if the SSC is held to constitute a labor organization, it did not interfere with or dominate that organization. Respondent asserts in that regard that it had no knowledge of the SSC's activities until the letter of October 28, 1987 sent to the Board. That letter was discussed at the meeting with support staff on November 6, 1987, and in response to Kattman's questions as to whether the SSC was intended to be a union, based on the use of some terms in the letter, it was made clear that the employes did not intend to form a union for negotiating collectively. While Kattman indicated at that meeting his displeasure concerning the SSC's direct communication with the Board, this was based on his belief that the SSC had ignored his request that the letter not be sent and his being upset over the failure of the employes to follow the procedures set out in the employe handbook. After his secretary explained that the letter was sent out before the SSC became aware of his request, Kattman and Swalve decided to continue to provide information to the SSC, if requested. They were concerned, however, because it did not appear that the SSC was representative of the entire support staff. Respondent asserts that following the November 6th meeting, the administration took no action against any of the individual SSC members, nor did they express their opinion regarding the SSC beyond the issue of whether it was representative of the staff. There was no evidence to indicate that Respondent took any action to dominate or interfere with the SSC at any relevant time. Therefore, even assuming the SSC was a "labor organization", there is no basis for finding a violation of (3)(a)2.

DISCUSSION

(3)(a)1 and (3)(a)3

Relying on the one year statute of limitations under MERA, the Respondent renews its contention that the Commission has no jurisdiction over, and that the Examiner may not consider, events alleged that took place more than one year prior to the filing of the complaint. The Complainant asserts that such events may be considered for evidentiary purposes to shed light on conduct that occurred within the limitations period. Both parties rely on the U.S. Supreme Court's analysis in its decision in Bryan Manufacturing Co., supra, regarding the consideration of events that occurred prior to the limitations period set forth in Sec. 10(b) of the National Labor Relations Act (NLRA). In its analysis the Court distinguished between two types of situations:

. . . The first is one where occurrences within the . . .

limitations period in and of themselves may constitute, as a substantive matter, unfair labor practices. There, earlier events may be utilized to shed light on the true character of matters occurring within the limitations period; and for that purpose Sec. 10(b) ordinarily does not bar such evidentiary use of anterior events. The second situation is that where conduct occurring within the limitations period can be charged to be an unfair labor practice only through reliance on an earlier unfair labor practice. There the use of the earlier unfair labor practice is not merely "evidentiary," since it does not simply lay bare a putative current unfair labor practice. Rather, it serves to cloak with illegality that which was otherwise lawful. And where a complaint based upon that earlier event is time barred, to permit the event itself to be so used in effect results in reviving a legally defunct unfair labor practice.

That analysis has been adopted by the Commission in making such determination. 4/

In this case, the complaint alleges that the Complainant was given a negative evaluation and one-half the percentage pay raise granted to other of Respondent's support staff due to Respondent's animus towards her having engaged in protected, concerted activity. The conduct complained of, i.e., the issuance of the negative evaluation and the granting of one-half the normal pay raise, occurred in May and August of 1988, respectively, and thus occurred within one year of the filing of the complaint on April 26, 1989. The evidence as to events that occurred prior to the limitation period in this case were offered and received for the purpose of demonstrating Respondent's motivation for taking the action that occurred within the limitation period and establishing that Complainant had engaged in protected, concerted activity. Hence, this case falls within the first situation described by the Court in Bryan, where events which occurred prior to the limitations period "may be utilized to shed light on the true character of matters occurring within the limitations period."

With regard to the alleged interference, the Commission has held that in order to establish a violation of Sec. 111.70(3)(a)1, Stats., the complainant must prove by a clear and satisfactory preponderance of the evidence that the employer's action

"contained either some threat of reprisal or promise of benefit which would tend to interfere with, restrain, or coerce municipal employes in the exercise of rights guaranteed by Sec. 111.70(2), Stats. It is not necessary to prove that Respondent intended to interfere with or coerce employes or that there was actual interference. Interference may be proved by showing that the Respondent's conduct had a reasonable tendency to interfere with the employer's right to exercise MERA rights. In each instance, the remarks as well as the circumstances under which they were made must be considered in order to determine the meaning which an employe would reasonably place on the statement." 5/

3/ Moraine Park Technical College, Dec. No. 25747-A (WERC, 1/90).

4/ Beaver Dam United School District, Dec. No. 20283-B (WERC, 5/84).

As Complainant asserts, it is not necessary that a labor organization be involved in order to find that an employe is engaged in protected activity, i.e., "lawful concerted activities for the purpose of mutual aid or protection." Juneau County (Pleasant Acres Infirmary), Dec. No. 12593-B at 22; and Fennimore Community Schools, supra, at 16. See also, School District of Nekoosa, Dec. No. 25026-A, (Gratz, 5/88). The Examiner has concluded that Complainant's efforts on behalf of the support staff with regard to the change in computation of hours, her involvement in the SSC and its activities, and her support of Becker's request for a reclassification to Level IV constituted protected, concerted activity. While it is clear that Complainant had an individual interest in some of the concerns raised, it is equally clear that other employes shared a number of those concerns. Although Complainant's protected, concerted activity occurred prior to the limitations period, it is part of the context in which Complainant subsequently received the negative performance evaluation for the 1987-88 school year and was granted half the raise received by Respondent's other support staff for the 1988-89 school year. Furthermore, the comments Lang attached to the evaluation referred to Complainant's having raised support staff concerns during the year. The gist of Lang's comments was that he related what he felt was Complainant's negative attitude to her involvement in support staff concerns and the SSC:

Concerns which surfaced during the year usually focused on issues related to support staff involvement, job evaluations, job descriptions, compensation and administrative policies and procedures.

. . . .

Feelings of frustration, lack of trust with the administration and job dissatisfaction were expressed. Comments were made to the director inferring that he was interfering with her work; snooping around the office behind employees' backs; inappropriately managing other employees and comments were made to the effect that she doubted that a good relationship could be maintained because of a lack of trust and respect. Other comments were made on behalf of other employees even though it was often made clear that she should only represent her concerns.

With respect to the recommendation that Complainant receive half the pay raise granted to Respondent's other support staff for 1988-89 school year, the July 11, 1988 letter from Swalve related that recommendation to Complainant's performance evaluation, and hence, to Lang's attached comments referring to her involvement in support staff concerns. That connection was even more expressly made in Kattman's August 9, 1988 letter which set forth certain "expectations" Complainant must meet or be terminated, and inferentially what the administration felt were problems with her behavior in the past:

August 9, 1988

To:Joan Goetz

From:Bob Kattman

Subject: Job Expectations

This memo is a follow-up to the meeting with the Board of Education on August 8, 1988. I am putting the information in written form because I want to make absolutely certain that you understand the expectations

we have for you. It is my sincere hope that we can work together to overcome the problems which exist and that a harmonious working relationship can be created.

Whether or not the problems can be overcome is up to you. You must understand our expectations and you must take immediate action to change your behavior. If you fail to do so, I will have not (sic) other choice but to terminate your employment.

The expectations we hold for you are as follows:

. . . .

4. The support staff handbook (sic) clearly defines channels for addressing concerns. The established channels are to be followed in all situations. Disruptive behavior will not be tolerated. Disruptive behavior includes: Making negative remarks to other employees and community members about your job or about your supervisor, lobbying other support staff members to intervene on your behalf in regard to a reprimand or poor evaluation, and involving yourself in employment related matters of other individual employees.

I strongly hope that you can make the changes required. You have a lot of potential. When I initially hired you and recommended you for your present position, I believed that you could be an excellent secretary. I still do. I will certainly do all that I can do to help you reach this potential.

Swalve's letter of August 11, 1988 to Complainant reiterated in more detail the concerns expressed in paragraph 4 of Kattman's letter in light of her attempt to obtain Mikyska's verification that it was not the Complainant who had called her in September of 1987:

August 11, 1988

To: Joan Goetz

From: Gary Swalve

Subject: Improper Conduct

It has come to my attention that at approximately 9:30 a.m. on Tuesday, August 9, 1988 you made a telephone call to Jan Mikyska, Assistant Secretary for Maple Dale School, to request that she sign a statement indicating that you had not contacted her last fall regarding topics such as salary, benefits, job vacancies, and the filling of support staff positions within the Maple Dale-Indian Hill School District. Mrs. Mikyska informed you that she could not sign such a statement because it would be a "falsification". She reminded you that you had contacted her - at least twice and perhaps three times - regarding the above topics.

Your call to Mrs. Mikyska is a perfect example of the type of activity which we have notified you is inappropriate.

If the call had been made after our 10:30 a.m. conference of the same day it would have been inexcusable. You disrupted your work day and that of an employee of another school district in an attempt to manipulate the facts in regard to an incident for which you were reprimanded! This is not acceptable behavior!

As Dr. Kattman emphasized during our conference at 10:30 a.m. on Tuesday, August 9, 1988:

- (1) You are not to lobby other staff member of either district to intervene on your behalf in regard to a reprimand or poor evaluation at any time.
- (2) You are not to disrupt your work time or that of any other employee to discuss your individual concerns.
- (3) You are not to involve yourself in the individual concerns of other employees. Proper channels exist for review of such concerns without your intervention.
- (4) You are not to disrupt your work time or that of any other employee to attempt to organize employees. This does not, however, prohibit you from engaging in any activity relating to overall support staff concerns or to collective organization on your own time.

I must emphasize that had you made the contact to Mrs. Mikyska following our 10:30 a.m. Tuesday meeting, it would have been cause for termination of your employment. You must realize that your employment is in jeopardy if you continue acting in this manner!

cc.
Dr. Robert Kattman
Mr. Robert Lang
Personnel File

It is noted that even in light of his negative comments attached to Complainant's performance evaluation, Lang recommended that she be given a full raise for the 1988-89 school year. That recommendation evolved into granting half a raise and a threat of termination if she did not change her ways, including not involving herself in the "individual concerns of other employees," or asking other employes for help or support "at any time" in regard to a reprimand or poor evaluation. Even in the abstract, such prohibitions are overbroad and could easily be read to preclude employes from joining together for mutual aid or protection; however, in the context of this case, they could reasonably be taken to relate to Complainant's involvement in the SSC, her involvement in questioning the recomputation of hours and her support for Becker's request for a reclassification, and not just the calls to Mikyska.

It is concluded that Lang's comments attached to Complainant's 1987-88 performance evaluation, the granting of half the normal pay raise, the letter of July 11, 1988 relating the granting of half of a raise to her performance evaluation, and the letters of August 9 and 11, 1988, constituted threats of reprisal which would tend to interfere with the exercise of rights guaranteed in Sec. 111.70(2), Stats., i.e., to engage in lawful, concerted activity for purposes of mutual aid and protection. This is true not only as to Complainant, but also as to other of Respondent's support staff upon which Respondent's actions would likely have a chilling effect.

Complainant also alleges that Respondent's actions constituted discrimination within the meaning of Sec. 111.70(3)(a)3, Stats. The Commission has held that in order to prevail on a claim of discrimination, Complainant must prove by a clear and satisfactory preponderance of the evidence that (1) Complainant was engaged in protected, concerted activity; (2) that the Respondent's agents were aware of said activity; (3) that the Respondent's agents were hostile toward said activity; and (4) that the Respondent's actions against the Complainant were motivated, at least in part, by the Respondent's agent's hostility toward Complainant's protected, concerted activities. 6/ The fact that Respondent has other legitimate grounds for its actions is not a defense if it is established that animus toward the protected, concerted activity was in any way part of the basis for its actions. 7/

It has already been concluded that Complainant was engaged in protected concerted activity through her involvement in forming the SSC and her efforts on behalf of the SSC, as well as her efforts with regard to questioning the recomputation of hours and on behalf of Becker's request for a raise. It is clear from the record that Lang, Swalve and Kattman were aware of Complainant's efforts as to the hours issue and on behalf of Becker's request, and that by the end of the November 6, 1987 meeting with the support staff all three were aware of her involvement in the SSC. Thus, the first two elements have been established.

As discussed above, Lang's comments attached to Complainant's performance evaluation referenced her raising of support staff concerns and issues of support staff involvement. His testimony further verified that he related her involvement in the SSC and support staff concerns to what he felt was her negative attitude and lack of support for him:

QI just wanted to clarify that. All right. A few more details here. If we could look to your evaluation of May of '88, and it's on Page 88, your handwritten portion, the second paragraph. Are you on Page 88?

AYes.

QWould you read the second paragraph to yourself, please?

AOkay.

QActually, during this time period of 1988-89 -- or '87-88, that was covered by this evaluation, there were no instances in which Joan during work time talked about support staff involvement; isn't that true?

AThere was nothing documented, but Joan did talk about -- I overheard conversations where she was talking to Paula or other people about support staff happenings.

QWhat do you recall about that? That's the first time I heard about that.

5/ Marathon County, Dec. No. 25757-C, No. 25908-C (WERC, 3/91) at 47-48.

6/ Muskego-Norway Schools v. WERC, 35 Wis.2d 540 (1969); State of Wisconsin, Department of Employment Relations v. WERC, 122 Wis.2d 132 (1985).

AI just recall hearing conversation regarding the happenings of meetings. I don't know when, but --

QWas this on a break?

AI don't recall.

QYet, it showed up in her evaluation, right? You never brought it to her attention during the school year, did you?

AThe statement here, again, refers back to attitude and because of some of the happenings that if --Joan was involved in the Support Staff Committee, that's what it was called. And I believe that things happened in those meetings that helped aid or create even more ill will and poor morale and distrust and that type of thing within the school. And so that's the context that I write that.

QOkay. So that's information that you had in talking to either Gary Swalve or Dr. Kattman but things you weren't directly involved in; is that what you're saying?

ANo. What I'm saying is through her involvement on that committee, I would sometimes just overhear conversations like, "Do you believe that this is what's going on or this is happening or this is the intent, and just general types of comments, maybe during lunch break or it might be during whenever, but the answer as far as Gary and Bob, no.

QSo this is things you overheard?

AI heard some conversations, but this is written in the context with her involvement on that. I think things at times became out of focus, out of perspective, and maybe they weren't factual at all and there was misinformation that might have been received from Joan, and it just created more distrust and that type of thing in the office. And that's the context I wrote that in.

QDid it make you distrustful? Or what are your comments?

ANo. Joan's attitude was the problem in the office.

QAnd you're attributing that to her involvement in the support staff; is that what you're saying?

AI mention it here in the context that she was involved in that committee, and with her involvement in this committee, I think this aided or helped her negative attitude in the office, some of the happenings of the support staff.

(Tr. 1070 - 72)

It is noted that Lang's evaluation of Becker, who also received half the raise of other support staff, also contained comments similar to those he attached to Complainant's evaluation. Further, although Respondent alleges ongoing problems with Complainant since June 8, 1985, the record indicates that Complainant received "very good" to "excellent" performance evaluations for 1985-86 and 1986-87.

Both Swalve and Kattman testified that Lang's comments on the evaluation were part of the basis for their views on what Complainant should receive for a pay raise (Tr. 1231 and 769-70, respectively). More significantly, the letter of August 9, 1988 to Complainant from Kattman sets forth the administration's expectations in what it felt were problem areas. While Respondent asserts it had legitimate reasons for disciplining Complainant by reducing her raise to half that granted to others, paragraph 4 of that letter lists as "disruptive behavior" that will not be tolerated:

Making negative remarks to other employees and community members about your job or about your supervisor, lobbying other support staff members to intervene on your behalf in regard to a reprimand or poor evaluation, and involving yourself in employment related matters of other individual employees.

Swalve's letter of August 11, 1988, generated by Complainant's call to Mikyska during work time, expanded on behavior the administration felt was unacceptable:

- (1) You are not to lobby other staff member of either district to intervene on your behalf in regard to a reprimand or poor evaluation at any time.
- (2) You are not to disrupt your work time or that of any other employee to discuss your individual concerns.
- (3) You are not to involve yourself in the individual concerns of other employees. Proper channels exist for review of such concerns without your intervention.
- (4) You are not to disrupt your work time or that of any other employee to attempt to organize employees. This does not, however, prohibit you from engaging in any activity relating to overall support staff concerns or to collective organization on your own time.

The letters of August 9th and 11th essentially set forth the type of behavior by Complainant that Swalve and Kattman found unacceptable. The behavior included in paragraph 4 of the August 9th letter and paragraphs 1 and 3 of the August 11th letter included protected, concerted activity in which Complainant had engaged. Swalve's testimony sheds some light on what the letters are referencing regarding "negative remarks":

Q Did Joan's requests on behalf of the Support Staff Committee influence you in any way on your view toward whether or not Joan was deserving of the pay raise?

A No. The only thing that her involvement in the support staff did was provided me with other opportunities that I had had communication with Bob where I knew -- or excuse me with Joan -- that I knew that she was not supporting Bob or the administration.

(Tr. 1231)

Swalve also testified to the displeasure he felt toward the SSC's demands for salary information:

QNow, in the two-month period from November 6th, 1987 through January 4th through the 6th of 1988, did you receive any communications from the Support Staff Committee asking that they be recognized or that you deal with them on wage and benefit concerns?

AI believe I had at least one further request for some information from the group where I recall they demanded a response from me by a given date which I took some exception to.

QWhat did you do after you received that document?

AI took it in to Dr. Kattman and expressed my concern about their demand for --

QWhat did you specifically discuss with Dr. Kattman?

AI indicated to him my dissatisfaction with being requested to respond by date that was demanded by that group, and I thought perhaps the time had come that we take a look and see how that group is responding to the need of the whole support staff.

(Tr. 1235-36)

The Respondent asserts as a defense that it had legitimate bases for taking the action against the Complainant, and that the fact it did not take similar action against other members of the SSC refutes Complainant's claim that the action was taken due to her involvement in the SSC. The comments of Lang in the evaluation, however, indicate that her involvement in the SSC and support staff concerns and making comments on behalf of other employes, i.e., protected, concerted activity, was related to what he considered to be a negative attitude and a basis for the negative part of her evaluation. Similarly, the August 9th and 11th letters note certain protected, concerted activity, such as asking other employes for support or supporting other individual employes with regard to employment concerns, as unacceptable behavior for which she may be terminated. The letters cannot be viewed in the abstract, rather, they must be considered in the context of the circumstances in this case. While in some contexts the conduct noted in the letters may be a legitimate basis for discipline, such as where it disrupts work time and is against established rules that are uniformly applied, that is not the case here. With the exception of the call to Mikyska on August 9th, there is no evidence that Complainant engaged in the activities on work time. Lang testified he could not recall if he heard Complainant's comments during break time or work time.

It is also noted that Lang's allegation that Jacobson had reported to him that Complainant was making negative remarks about Lang was contradicted by Jacobson's testimony that Lang would call him in and ask him about such matters. No evidence was presented with regard to alleged negative comments to the public or the Board.

It is not clear what "lobbying other support staff members to intervene on your behalf" refers to, other than that it appears Complainant and others contacted other support staff to obtain their support. That is protected, concerted activity. The comment does not distinguish between behavior that is protected, i.e., seeking and obtaining Becker's and others support, and that which may not be protected, e.g., the call to Mikyska. Further, it is noted that the Support Staff Handbook gives employes the right to have another employe present during discussions regarding discipline or unfair treatment. It is also not clear what the statement "involving yourself in employment related matters of other individual employees" refers to; however, it appears likely that is a reference to Complainant's questions at the meeting regarding Hoffman's leaving and other accompanying actions for which the administration believed she and Becker were responsible, her comments to Lang regarding Talasek, and her support of Becker's request for a raise and reclassification.

The Respondent notes Complainant's refusal to accept the administration's decisions regarding her requests for raises and for a reclassification and asserts that her's were individual efforts, not concerted activity, with regard to the comments and attitude they considered. The fact that initially Complainant had individual concerns regarding the salary categories and comparisons with salaries in other school districts became irrelevant when these became shared concerns of other support staff. It does not make any difference whether other support staff initially shared these concerns, as it appears they did from the minutes of the SSC meetings, or if the Complainant was subsequently able to convince the others that these were problems, either way it is protected, concerted activity. It is clear from the record that the administration was frustrated with the Complainant's attitude, in that they were tired of hearing her tell them how demanding her job was and deserving of a raise to Level VI, as well as her refusal to accept their reasons for denying her requests for a higher than normal raise. It also appears that Complainant felt free to complain about Lang to Kattman and that she could be abrasive and accusatory in her communications with Lang and Swalve. This may explain to some extent why Complainant was singled out. More importantly, however, Complainant was the obvious leader of the SSC and that was made known to the administration by her comments and actions at the November 6, 1987 meeting with the support staff, by the letter of November 1987 to Swalve identifying the SSC members and listing Complainant as the "Coordinator," and through the "thank you" letter to Complainant passed around at the April 28, 1988 JGC meeting at which Swalve was present. Given Kattman's anger over the sending of the letter of October 28, 1987 from the SSC to the Board, and Complainant's leadership role, it is not unlikely he held her responsible.

It is noted that MERA is not intended to protect only reasonable, polite employes, indeed it is often the more aggressive and abrasive individuals who take the leadership roles in concerted activity and, thus, who may be most in need of protection. Further, although some conduct that could fit within that described in the letters might not be concerted activity, the letters of August 9th and 11th do not explain what particular behavior was being referenced and it appears to the Examiner to include both protected and unprotected activity. The letters again must be viewed in the context of what took place, and the Respondent cannot escape the actual impact of the letters by describing the offending conduct of Complainant in broad, vague terms and then arguing it only refers to the Complainant's unprotected activity. Hence, it has been concluded that the Complainant received a negative evaluation, the lesser pay raise and the letters of reprimand threatening termination, based in part upon her having engaged in protected, concerted activity, of which Respondent's agents were aware and toward which Respondent's administration was hostile. On that basis, and because it has also been found to independently constitute interference, the Respondent has been ordered to remove the handwritten comments from Complainant's 1987-88 evaluation, and to remove the letters of July 11, August 9 and 11, 1988 from her personnel file and to

retroactively grant the full percentage pay increase to Complainant for 1988-89, with interest.

(3)(a) 2

Complainant has also asserted that the Respondent's creation of the JGC constitutes interference with an employe organization under Sec. 111.70(3)(a)2, Stats. It is further asserted that the continued existence of the JGC and the meetings it held within the limitations period constitute a continuing violation, thus bringing it within the one year limitations period under Sec. 111.07(14), Stats.

The Examiner has reviewed the considerable record and has not found any effort by the SSC members, including Complainant, to continue the SSC or to resurrect it during the limitations period. The fact that Respondent's administration held meetings of the JGC for the purpose of discussing support staff concerns and opening up communications between staff and management, where there is no labor or employe organization present or attempting to organize, does not by itself constitute a violation of MERA. The existence of the JGC can be cloaked with illegality only if the Respondent's conduct at the time it was created can be held to be a prohibited practice, and that conduct occurred outside the limitations period. Thus, it is not a matter of considering an act that occurred within the limitations period and viewing earlier conduct to discern the true nature of that act. It is concluded that this allegation falls within the second situation described in Byran, supra, and is, therefore, time barred under Sec. 111.07(14), Stats. 8/ Thus, the alleged violation of Sec. 111.70(3)(a)2, Stats., has been dismissed.

Dated at Madison, Wisconsin this 3rd day of September, 1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By David E. Shaw /s/
David E. Shaw, Examiner

7/ Moraine Park Technical College, Dec. No. 25747-C (McLaughlin, 9/89), aff'd Dec. No. 25747-D (WERC, 1/90); Village of Hartland, Dec. No. 20369-A (Honeyman, 11/83); School District of Clayton, Dec. No. 20477-B (McLaughlin, 10/83).

