

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of :

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WISCONSIN EDUCATION ASSOCIATION :

COUNCIL : Case 39

: No. 44875 ME-3075

Involving Certain Employes of : Decision No. 27000

:

MARINETTE SCHOOL DISTRICT :

:

Appearances:

Mr. Charles Garnier, Coordinator, Wisconsin Education Association Council, 550 East Shady Lane, Neenah, Wisconsin 54956, appearing on behalf of the Wisconsin Education Association Council.
Morrison & Coggins, S.C., Attorneys at Law, by Mr. Robert J. Jamo at hearing and Mr. James A. Morrison on brief, 2042 Maple Avenue, P.O. Box 406, Marinette, Wisconsin 54143, appearing on behalf of the Marinette School District.

FINDING OF FACT, CONCLUSIONS OF LAW,
AND DIRECTION OF ELECTION

The Wisconsin Education Association Council filed a petition with the Wisconsin Employment Relations Commission on November 30, 1990. Said petition requested the Commission to conduct an election to determine whether all regular full-time and part-time aides, excluding managerial, confidential, supervisory, and professional employes of the Marinette School District desire to be represented by the Petitioner for the purposes of collective bargaining. A hearing was conducted on March 12, 1991, at Marinette, Wisconsin, before James W. Engmann, a member of the Commission's staff. The transcript of the hearing was received on April 1, 1991. The parties filed briefs, the last of which was received on May 17, 1991, and the parties waived the submission of reply briefs on May 29, 1991. The Commission, having considered the evidence and the arguments of the parties, hereby makes and issues the following

FINDINGS OF FACT

1. The Wisconsin Education Association Council, hereinafter Association, is a labor organization with offices located at 550 East Shady Lane, Neenah, Wisconsin 54956.

2. The Marinette School District, hereinafter District, is a municipal employer which operates a school system for 2,850 primary and secondary students. Said District has its principal offices at 1010 Main Street, Marinette, Wisconsin 54143.

3. On November 30, 1990, the Association filed a petition with the Wisconsin Employment Relations Commission (hereinafter Commission), requesting the Commission to conduct an election to determine whether certain employes of the District wish to be represented by the Association for purposes of collective bargaining. The bargaining unit claimed as appropriate by the Association is described as follows:

All regular full and part time aides, excluding all other non-certified employees of the district including managerial, confidential, supervisory and professional employees.

The District argues that this is not an appropriate bargaining unit; instead, the District alleges that the appropriate bargaining unit should be composed of all regular full-time and regular part-time unrepresented employees, including secretaries, bookkeepers, aides and cooks.

4. If the bargaining unit proposed by the Association is found appropriate, the parties stipulate that the eligibility list consists of 23 full-time aides and 35 part-time aides. If the bargaining unit proposed by the District is found appropriate, the parties stipulate that the eligibility list includes 23 full-time aides, 35 part-time aides, 15 secretaries, eight cooks, and 13 cooks assistants. Should an election be directed in the overall unit, the parties disagree about the inclusion therein of four secretaries: Judy Borths, Linda Kumpunen, Sandy Walker and Jean Zutter. The District argues that they should be excluded as confidential employees, whereas the Association argues that one unspecified secretary should be excluded as confidential. Within the context of the District's unit, the parties stipulate Food Service Manager, Dorothy Linczeski, is excluded as a supervisor.

5. The qualifications required by the District for the position of aide are as follows:

1. High School diploma or equivalent.
2. Certificate, license or other legal credentials as required.
3. Such alternatives to the above qualifications as the Board of Education may find appropriate and acceptable.

The written job goal for the position of aide is as follows:

To assist the teacher in maintaining appropriate classroom activities and a well organized, smooth functioning class environment in which students can take full advantage of the instructional programs and available resource materials.

The District has 58 aides, a higher number than the average district. Aides who work with children with exceptional educational needs (EEN), specifically special education and emotionally disturbed children, are required to have a license or certificate from the Department of Public Instruction. Approximately 240 to 260 students in the District are in these categories. These EEN aides participate at times on multi-disciplinary teams which determine the students' educational goals. Aides do not do any clerical work, such as typing, although they may answer the telephone in the absence of a secretary.

6. The qualifications required by the District for the position of secretary are as follows:

1. High School Graduate.
2. One to three years previous experience.
3. Organizational and management skills.
4. Computer background.
5. Literary and communication skills.
6. Typing skills.

7. Public relations and interpersonal skills.
8. Such alternative to the above qualifications as the Board of Education may find appropriate and acceptable.

The written job goal for the position of secretary is as follows:

Provide the building principal with the clerical assistance necessary to manage and operate the instructional and business functions of the school.

The District has 19 clerical employes, most of whom are secretaries but two of whom are bookkeepers. Secretaries do not work directly with classroom teachers in the classroom, although on occasion a secretary may be involved in test scoring. While the secretaries are not involved directly in the educational function, they interact with children who need medicine or who are sent to the office for discipline.

7. The qualifications for the position of cook are as follows:

1. High School diploma or equivalent.
2. Demonstrated aptitude or competence in the basic principle of food service preparation.
3. Such alternatives to the above qualifications as the Board may find appropriate and acceptable.

The written job goal for the position of cook is as follows:

To prepare and serve the students attractive and nutritious meals in an atmosphere of efficiency, cleanliness and warmth.

The District employes eight cooks and 13 cooks assistants. Other than serving food to students, cooks do not have any contact with students.

8. The work schedule of an aide is determined by the hours that the teaching center to which the aide is assigned is open. Full-time aides work six or more hours a day while part-time aides work less than six hour a day. Full-time aides work 184 days a year while part-time aides work 180 days a year. Full-time secretaries work seven hours fifty minutes a day when school is in session, six hours a day when school is not scheduled during the school year, and seven hours a day during the summer. Full-time secretaries work either 10 or 12 months a year. Elementary secretaries work seven hours and 10 minutes a day and 190 days a year. Full-time cooks work 6.5 hours a day while part-time cooks work either 2, 2.5 or 3 hours a day. Full-time cooks work 185 days a year while part-time cooks work 180 days a year.

9. Full-time aides receive four paid holidays a year and 10 paid leave days a year cumulative to 120 days, while part-time aides do not receive any paid holidays or paid leave days. Twelve-month secretaries receive 10 paid holidays a year and 10 month secretaries receive nine paid holidays a year while elementary secretaries do not receive any paid holidays. All secretaries receive 10 paid leave days a year cumulative to 120 days. Full-time cooks receive four paid holidays a year and 10 paid leave days a year cumulative to 120 days, while part-time cooks do not receive any paid holidays or paid leave days. Aides do not receive any paid vacation. Twelve month secretaries receive one week of paid vacation a year after one year of employment, two weeks of paid vacation a year after three years of employment and three weeks of paid vacation a year after 10 years of employment. Ten-month and elementary secretaries do not receive any paid vacation. Neither full-time nor part-time cooks receive any paid vacation.

10. During 1990-91, aides were hourly employes paid between \$4.49 and \$8.13 an hour. Secretaries were salaried employes paid from \$9,775 to \$26,342 per year; however, excluding the four secretaries in dispute, the salaries for secretaries ranged from \$9,775 to \$20,011 a year. Full-time cooks were hourly employes paid between \$5.19 and \$7.92 an hour, whereas part-time cooks were hourly employes paid between \$4.24 and \$6.36 an hour. The District paid 90 per cent of single or family health and dental insurance for full-time and part-time aides, secretaries and full-time cooks; however, part-time cooks did not receive health and dental insurance contributions from the District. The District paid 100 percent of municipal retirement and group life insurance for full-time and part-time aides, secretaries and full-time cooks; however, part-time cooks did not receive municipal retirement or group life insurance. Ten and 12-month secretaries with 10 years of service in the District who retire at age 62 received paid medical and dental insurance coverage until age 65; however, neither aides, elementary secretaries nor cooks received any insurance payment upon retirement at age 62.

11. The majority of aides are assigned to a class room or learning center in one of the District's six elementary schools. The aide's work is assigned by the teacher but aides report to the building principal. Each secretary is assigned to an office in a school or the District's business office. Secretaries report to the building principal or other administrator, while each secretary is supervised by the staff member designated by the

district administrator or principal. Each cook is assigned to the kitchen of one of the schools. The cooks are supervised by and report to the Food Service Supervisor.

12. The District currently negotiates with two collective bargaining units. The approximately 185 teachers are represented by the Marinette Education Association, Wisconsin Education Association Council. On May 22, 1973, the District and Local 260-A, Wisconsin Council of County and Municipal Employees, AFSCME, AFL-CIO (hereinafter AFSCME) stipulated that the unit described as "all regular full time and regular part time custodial and maintenance employes, excluding all clerical, craft and professional employes, cooks and supervisors" was appropriate for collective bargaining. On July 30, 1973, the Commission certified AFSCME as the collective bargaining representative for the unit described above. AFSCME has represented the custodial and maintenance unit since that time. Currently the District employs 11 custodial and maintenance employes who are in the bargaining unit.

13. Each year between January and March, the District meets separately with the aides, the secretaries and the cooks to discuss wages, hours and conditions of employment. At said meetings, each group exchanges ideas with the District's Business Manager about that group's wages, hours and conditions of employment for the following year. The District determines the wages, hours and conditions of employment for the aides, the secretaries and the cooks. On or about August 6, 1990, the District provided the aides with a document entitled "Working Conditions of the 1990-91 School Year", the secretaries with a document entitled "Conditions of 1990-91 Contract", and the cooks with a document entitled "Conditions of 1990-91 Contract." Said documents informed each group of their wages, hours and conditions of employment for the 1990-91 school year. For at least the past three school years, the District has given these three employe groups the same percentage raise in wages: 4.75 per cent in 1988-89, six per cent in 1989-90, and six per cent in 1990-91.

Based upon the above and foregoing Findings of Fact, the Commission makes and issues the following

CONCLUSIONS OF LAW

1. That all regular full-time and regular part-time aides of the Marinette School District, excluding all other non-certified employes of the District, managerial, confidential, supervisory and professional employes, constitutes an appropriate bargaining unit within the meaning of Sec. 111.70(4)(d) 2.a. Stats.

2. That a question concerning representation exists within the collective bargaining unit referred to in Conclusion of Law 1 above.

Based upon the above and foregoing Findings of Fact and Conclusions of Law, the Commission makes and issues the following

DIRECTION OF ELECTION

That an election by secret ballot be conducted under the direction of the Wisconsin Employment Relations Commission within forty-five days from the date of this direction in the collective bargaining unit consisting of all regular full-time and regular part-time aides of the Marinette School District, but excluding all other non-certified employes of the District, managerial, confidential, supervisory and professional employes, who were employed on

September 3, 1991, except such employes as may prior to the election quit their employment or be discharged for cause, for the purpose of determining whether a majority of the employes voting desire to be represented by Wisconsin Education Association Council for the purpose of collective bargaining with the Marinette School District on questions of wages, hour, and conditions of employment or not to be so represented.

Given under our hands and seal at the City of
Madison, Wisconsin this 3rd day of September,
1991.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

MARINETTE SCHOOL DISTRICT

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

POSITIONS OF THE PARTIES

Association

The Association argues that a bargaining unit consisting solely of aides is an appropriate unit based on previous commission dicta; that over the years the Commission has allowed a wide variety of bargaining units to be formed based upon the desires, interests and aspirations of the involved employes; that in the instant case the record is clear that the aides are the only group of non-represented employes of the District that currently desire to be represented in matters of collective bargaining; that not one food service or secretarial employe testified that either of these groups supported their inclusion in the bargaining unit; that the desire of the aides to be represented in a separate bargaining unit should be given considerable weight; that neither the food service or secretarial employes should be forced into a "shotgun marriage" with the aides; that the Commission has not forced "white collar" and "blue collar" non-professional employes to belong to the same wall-to-wall unit against their wishes; that the unit proposed by the District would create a situation wherein the "blue collar" custodians would remain in a separate unit while the "blue collar" food service employes would be placed in a unit consisting of "white-collar" aides and secretaries; that while such units do exist, they came about via voluntary agreement between the parties to the appropriateness thereof and not via Commission edict; that it is not necessary that the most appropriate unit be established, only that the unit be an appropriate unit given the fact situation in each case; and that, in the instant case, the record is clear that the aides do not share a community of interest with the food service and secretarial employes.

Specifically, the Association argues that it is clear on the record that the duties and skills of the aides differ markedly from those evidenced by either secretaries or food service personnel; that the job descriptions of each group show that the only common qualification is the possession of a high school diploma or its equivalent; that the job descriptions show no commonality between the three groups in performance responsibilities; that certain aides are required to obtain a license from the Department of Public Instruction to work with handicapped students; that no license is required of either secretaries or cooks; that the wages, hours and conditions of employment are different for the three groups; that the school principal has considerable supervisory authority over secretaries and aides; that the principal does not supervise the cooks; that aides receive the bulk of their work assignments from teachers who monitor their work performance; that neither secretaries nor cooks work closely with teachers; that secretaries and cooks report to various middle management supervisors; that aides are often members of multi-disciplinary teams while secretaries and cooks are not; that in all but one instance, the workplace for aides is the teacher's classroom; that cooks work exclusively in various kitchens throughout the District; that secretaries work in offices in close proximity to the principal or administrator for whom they work; that, thus, there is no commonality regarding workplace for the three groups except that they share a common building; that each employe group is called into a separate meeting in the spring of each year and told by District representatives what the wages, hours and conditions of employment will be for the ensuing school year; and that it is clear on the record that aides,

secretaries and cooks have never bargained together.

The Association concedes that the most appropriate unit would be one consisting of aides and secretaries because both groups are white collar non-professions; however, the Association argues that it is clear, based upon community of interest, that a unit consisting solely of aides would be an appropriate unit; that the secretaries are not seeking to be represented, particularly in a unit with the aides where they would be a minority of at most 19 secretaries and 58 aides; that the Commission should not substitute its judgment regarding an appropriate unit for the judgment of the union and the employes it wishes to represent; that, in addition, the Association argues that the unit sought by the Association will not result in undue fragmentation of bargaining units; that the various employe groups have the following number of employes:

Aides	58 employes
Secretaries	19 employes
Cooks	21 employes

that the 11 custodial employes are represented by AFSCME; that if the District's proposed unit is adopted, there would be a unit of 11 custodians and one of 98 aides, secretaries and cooks; that this combination should be rejected out of hand because it combines a blue collar unit of cooks with white collar secretaries and aides; that there is no community of interest between cooks and the other two groups; that the District may argue that the Association's proposed unit results in undue fragmentation but it has never tried to change its unit of 11 custodians; that the Commission has not objected to the maintenance of non-professional units consisting of only one classification of employe, citing numerous cases; and that a potential unit of 19 secretaries is not too small to be viable.

Finally, the Association argues that the District's contention that all four central office secretaries should be excluded on the basis of confidentiality constitutes an over-reach and should be rejected by the Commission; that it is unreasonable on its face for the District to expect all four of the central office secretaries should be excluded from the merged bargaining unit; that, on the contrary, one exclusion would be most appropriate; that more than that would be excessive; that the District attempted at hearing to establish that each of the four secretaries performed some confidential duties; that the Commission has maintained that employer attempts to allocate confidential duties to an unreasonable number of employes for the purpose of gaining excessive exclusions from the bargaining unit will not be permitted; that the scope of the confidential work done in toto by the four employes is of a limited nature; that none of them attend executive sessions of school board meetings or collective bargaining sessions; that none of them advises the District regarding any of the represented or unrepresented employe groups; that none of them are involved in private administrative discussions regarding grievances; that Judy Borths handles much of the computer work necessary for the costing of the salary portion of the teachers' bargain; that this sort of task is also carried out by union bargainers and the information shared at some point in the process; that Borths does not participate in the process to determine what the percentage raise should be; that, rather, she follow the instructions given to her by the District to determine what a given percentage raise would cost the District; and that the District should have no difficulty whatsoever in concentrating the minimal amount of confidential work presently being performed into the job description of one secretary.

District

The District argues that it does not object to an election to determine the interest of the District's unrepresented employees in the formation of a formal bargaining unit; that the District does take issue with the Association's suggested bargaining unit of only full and part-time teacher aides; that the most appropriate unit would be composed of all regular full-time and regular part-time unrepresented employees, which would include secretaries/bookkeepers, aides and cooks; that the District recognizes that not every factor enumerated by the Commission in determining the appropriate bargaining units is applicable here; but that the most important and decisive factors applicable here are common supervision, common workplace and duties, community of interest and avoidance of undue fragmentation.

Specifically, the District argues that adoption of the bargaining unit proposed by the Association will result in undue fragmentation of the District's bargaining units; that the teachers are represented by the Marinette Education Association; that the custodians are represented by the Wisconsin Council of County and Municipal Employees; that the remaining unrepresented employees are 23 full-time aides, 35 part-time aides, 19 secretaries/bookkeepers and 21 cooks and cook assistants; that adoption of the Association's proposed unit creates the potential for the establishment of three more bargaining units in addition to the two that currently exist; that this scenario appears to be the very definition of undue fragmentation which the statute expressly directs should be avoided; that the specter of not three but five bargaining units in a school district the size of Marinette is a completely unworkable one; that multiple units of very small size will certainly create significant additional and unnecessary expense and costs for the District both in the negotiation of contracts and their subsequent implementation without providing any countervailing benefit to anyone; that a reasonable approach for avoiding undue fragmentation is for the Commission to find the appropriate unit to be a residual one of the teacher aides, secretaries/bookkeepers, and cooks; that residual units have historically been determined to be appropriate for several reasons; that, first, they serve the statutory interest in avoiding undue fragmentation; and that, second, they provide stability in existing bargaining relationships between a municipal employer and existing labor organizations, citing West Allis - West Milwaukee School District, Dec. No. 10495-A (WERC, 9/89).

The District also argues that common supervision exists for the aides, secretaries/bookkeepers and cooks; that the supervisor responsible for directing the efforts of each of these employees is the individual building principal; that these employees share a commonality of workplace; that the Association cannot reasonably argue that the aides have a common workplace among themselves as a group but not with the secretaries/bookkeepers and cooks; that the majority of aides are divided among the District's six elementary schools; that they do not share a common physical work site; that as to each elementary school, the aides, secretaries/bookkeepers and cooks share workplaces as one group; that there is a tremendous amount of job sharing on a daily basis; that there are many instances where secretaries perform what can be considered aide duties and vice versa; that this is the nature of small elementary schools; that job tasks overlap from day to day because of the limited number of staff members, their varied duties and close physical and psychological proximity; that aides, secretaries/bookkeepers and cooks currently have common benefit structures; that all full-time aides, secretaries/bookkeepers and cooks receive the same medical and dental benefits; that part-time aides and cooks assistants do not receive said benefits; that the three groups have received commonly based wage increases for years; that a commonality of interest exists among these three groups of employees; that the need to protect the interests and aspirations of the District's aides is not jeopardized by combining the aides with the secretaries/bookkeepers and cooks; that these three job classifications are more properly considered as one group;

and that the many things that bind them together are much more genuine, substantial and traditional than the technical and contrived distinctions which the Association seeks to foster to separate them.

Finally, the District argues that if the secretaries/bookkeepers are included in the bargaining unit, the four central office secretaries are properly excluded as confidential employees; that Judy Borths is the office manager; that in that position she oversees everything in the District's central office, including confidential information which deals with the District's strategy or position in its collective bargaining, contract administration and litigation; that Borths has responsibility for the preparation and calculation of the salary matrix used during negotiation of the teachers' contract; that with respect to negotiations, her position requires that she have knowledge of the District's goals and strategies; that Sandy Walker is the secretary to the District Administrator and the Board of Education; that she prepares materials for school board meetings and proposed changes to the contracts under negotiation; that Jean Zutter does the same work as Walker in an overflow capacity both when the work is such that Walker cannot handle it and when Walker is absent; that Linda Kumpunen is the central office bookkeeper; that she works closely with Borths during negotiations; that Kumpunen is the secretary to the District Business Manager; that she is exposed to and has access to confidential information by virtue of her work in preparation of the salary and benefit aspects of employe contracts and her role as District Business Manager secretary; that in light of the current level of staffing, it would be difficult if not impossible to consolidate one or more of the positions to thereby reduce the District's request for four confidential employees; and that the physical proximity of these four persons who share the same workplace, frequently answer

each other's phones, fill in for co-workers, communicate with Board members and legal counsel regarding confidential matters and strategies compel their classification as confidential employees.

DISCUSSION

Section 111.70(1)(b) of the Municipal Employment Relations Act (hereinafter MERA) defines a collective bargaining unit as "the unit determined by the Commission to be appropriate for the purpose of collective bargaining."

In determining whether the unit sought is appropriate, the Commission must consider Sec. 111.70(4)(d)2.a. of MERA which provides, in part, as follows:

The commission shall determine the appropriate bargaining unit for the purpose of collective bargaining and shall whenever possible avoid fragmentation by maintaining as few units as practicable in keeping with the size of the total municipal work force. In making such a determination, the commission may decide whether, in a particular case, the employes in the same or several departments, divisions, institutions, crafts, professions or other occupational groupings constitute a unit.

Although the statute directs that the Commission "whenever possible" avoid fragmentation of units, it does not specify that there be only one potentially appropriate unit in a given situation. Accordingly, the Commission is not precluded from finding that the Union's proposed bargaining unit, which is of more limited composition than the overall residual unit proposed by the District, is consistent with the statute. 7/ Our role is to determine whether the unit sought is an appropriate unit, not whether the unit sought is the most appropriate unit.

The Commission has interpreted Sec. 111.70(4)(d)2.a., Stats. to mean that at times there is a need for a mix of bargaining units which afford employes the opportunity to be represented in workable units by organizations of their own choosing, which may reasonably be expected to be concerned with the unique interests and aspirations of the employes in said unit. 8/ Therefore, the Commission has the obligation to strike a balance between the antifragmentation proscription of the statute and the need for ensuring that the unique interests of a given group of employes will not be subordinated to the interest of others in a bargaining group. 9/ However, units cannot be so fragmented so as to be inadequate for viable collective bargaining. 10/ For these reasons the Commission examines the facts in each case to determine whether the particular bargaining unit being sought is appropriate. 11/

In applying the statutory criteria in establishing appropriate bargaining

7/ City of Madison, Dec. No. 14463-A (WERC, 7/76).

8/ City of Madison, supra, Dane County, Dec. No. 10492-A (WERC, 3/72).

9/ City of Madison, supra.

10/ Dane County, supra; City of Madison, supra.

11/ Joint School District No. 8, City of Madison, Dec. No. 14814-A (WERC, 12/76); Shawno-Gresham School District, Dec. No. 2126-C (WERC, 12/83).

units, the Commission has considered the following factors:

1. Whether the employees in the unit sought share a 'community of interest' distinct from that of other employees.
2. The duties and skills of employees in the unit sought as compared with the duties and skills of other employees.
3. The similarity of wages, hours and working conditions of employees in the unit sought as compared to wages, hours and working conditions of other employees.
4. Whether the employees in the unit sought have separate or common supervision with other employees.
5. Whether the employees in the unit sought have a common workplace with the employees in said desired unit or whether they share a workplace with other employees.
6. Whether the unit sought will result in undue fragmentation of bargaining units.
7. Bargaining history. 12/

Applying the above factors to the instant case, it is clear that the aides do not share a community of interest with the cooks. Their duties and skills are totally dissimilar. The main emphasis of aides is working with teachers and students in furtherance of the educational process while the cooks prepare and serve meals. While there is some similarity of wages and hours, part-time cooks do not receive any of the benefits that part-time aides receive: health, dental and life insurance and retirement contribution. Nor do the two groups share common supervision: the aides report to teachers and the principal while cooks report to the Food Service Supervisor who does not report to the principal.

12/ Arrowhead Unit Teachers v. WERC, 116 Wis.2d 580 (1984); Benton School District, Dec. No. 24147 (WERC, 12/86); Boyceville Community School District, Dec. No. 20598 (WERC, 4/83).

Nor do the aides share a community of interest with the secretaries. Contrary to many of the cases that have come before us, the aides here do not do clerical work other than answering the telephone in some schools over the lunch hour. While secretaries do have some contact with students, it is incidental to the educational process. There is little similarity between the aides and secretaries regarding wages, hours and conditions of employment. The aides are hourly employes while the secretaries are salaried. The aides work various schedules, depending on the learning center they are assigned to, while the secretaries work a standard work day. In addition, some secretaries work ten and twelve months a year, whereas the aides work 180 days. None of the aides receive vacation or qualify for early retirement, whereas some secretaries do. While school year aides receive four paid holidays, school year secretaries do not receive any paid holidays, ten month secretaries receive nine paid holidays and twelve month secretaries receive ten paid holidays.

While both secretaries and aides are white collar workers, the District has treated them as separate groups by meeting separately with them to discuss wages and benefits and by then recording their working conditions in different documents. In addition, the unit of aides sought by the Association has 58 members, a number larger than other units where we have required wall to wall units or white collar units. The 15 to 19 secretaries, the number depending on how many would be excluded as confidential employes, and 21 cooks would be a small minority in a bargaining unit with 58 aides and yet are each large enough to independently be viable as separate units.

Given the foregoing, we are satisfied that the community of interest created by aides' educational role in the classroom, their distinctive duties and skills, their wages, hours and working conditions, their somewhat distinctive supervision, their numbers, and their past history of being considered a separate entity when meeting and conferring with the District, all support the appropriateness of an aides unit. The fragmentation caused by such a unit is not sufficient for us to find otherwise. 13/

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

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By A. Henry Hempe /s/
A. Henry Hempe, Chairperson

Herman Torosian /s/
Herman Torosian, Commissioner

William K. Strycker /s/
William K. Strycker, Commissioner

13/ The District has correctly noted that residual units not only serve the statutory interest in avoiding undue fragmentation but also provide stability by maintaining the structure of existing units. Here, the stability factor is not operative because no party is suggesting the existing units be altered by inclusion of unrepresented employes. Further, in the context of the facts herein, the residual unit proposed by the District would inappropriately subordinate the unique aspirations of secretaries and cooks.