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 MARILYN DAWSON,
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 Appellant,
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 v.
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 DIRECTOR, Board of Vocational,
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 Technical and Adult Education,
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 Respondent.
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 Case No. 77-85
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OPINION
AND
ORDER

OFFICIAL

Before: Morgan, Warren and Hessert, Board Members.

Nature of the Case

This is an appeal from a decision of the director pursuant to Section 16.05(1)(f), Wis. stats. The director's decision denied jurisdiction over the subject matter of the appeal. At the prehearing conference the respondent took the position that the personnel board lacks jurisdiction over the subject matter of this appeal since the position for which the appellant applied and was not appointed is not within the state civil service system. At the prehearing conference the parties stipulated to certain facts which are the basis of the following findings of fact. The board has reviewed the entire record in this matter.

Findings of Fact

The employing body for the position for which Ms. Dawson competed is the Circuit Relations Committee of the 16 Wisconsin Vocational, Technical and Adult Education Districts. The position is funded cooperatively by the Districts out of federal funds they receive, and its tenure is contingent on the continuation of such federal funding.

Under an agreement between the Circuit Relations Committee of the VTAE Districts and the Wisconsin Board of Vocational, Technical and Adult Education, the Board provides the services of a consultant, Samuel N. Munson, State Extension Coordinator, to supervise the activities of 44 Circuit Instructors who assist the Districts with their various apprenticeship programs.

The new position of Municipal Services Coordinator is comparable to those under the Circuit Instructor program and its purpose is to provide supervision of technical training to municipal officials throughout the 16 Districts. Erickson said there was no official state civil service system certification for this position. As the Circuit Relations Committee's consultant, Munson simply used state civil service examination and selection procedures as a guide to expedite the selection. The appellant was first interviewed by a panel of local district officials who provided a screen of top candidates who were ultimately interviewed by a group of state employes, headed by Mr. Munson, and acting as agents of the Wisconsin Schools of VTAE, who made the final decision for the appointment for this position.

Conclusions of Law

This board has jurisdiction over this appeal since there was a decision by the director and a timely appeal was taken. See Sections 16.05(1)(f) and 16.05(2), Wis. stats. That the director determined that he has no jurisdiction over the subject matter of the appeal to him because the transaction in question involved a position outside the state civil service does not deprive the board of jurisdiction to determine whether that decision was correct or incorrect. However, if the board determines that the director's jurisdictional decision was correct it should then dismiss the appeal without either reaching the merits of the personnel transaction appealed or remanding the case to the director for a decision on the merits.

The director's authority to review "personnel decisions made by appointing authorities," Section 16.03(4)(a), stats., obviously is limited by the statutory definition of "appointing authority," see Section 16.02(1), stats.:

"'Appointing authority' means any officer, commission, board or body having the power of appointment to or removal from subordinate positions in any department, state agency, or institution." (emphasis supplied)

The employing body here in question is the Circuit Relations Committee of the 16 Wisconsin Vocational, Technical and Adult Education Districts. There is nothing on this record or in the statutes which would support a conclusion that this body is a department, state agency, or institution. Although state employes, acting as agents of the VTAE schools, made the final decision on the appointment, this delegation to state employes does not make the "committee" a statutory appointing authority. Nor does this involvement by state employes in the selection process make the position in question one within the state civil service.


For these reasons it is concluded that the decision of the director must be affirmed and this appeal be dismissed.

Order

The decision of the director denying jurisdiction is affirmed and this appeal is dismissed.

Dated 10-12, 1977

STATE PERSONNEL BOARD



James Morgan, Chairperson