

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

WAUKESHA JOINT SCHOOL DISTRICT NO. 1

二  
二  
二  
二  
二  
二  
二  
二  
二

Case III  
No. 15299 ME-750  
Decision No. 10823-A

Mr. George Shiroda, Deputy Superintendent, School District of Waukesha, 222 Maple Avenue, Waukesha, Wisconsin 53186, appearing on behalf of the School District.

Mr. Richard W. Abelson, District Representative, Wisconsin Council 40, AFSCME, AFL-CIO, 2216 Allen Lane, Waukesha, WI 53186, appearing on behalf of the Union.

Waukesha Joint School District No. 1 having filed a petition requesting the Wisconsin Employment Relations Commission to clarify an existing certified collective bargaining unit of certain of its employees, and hearing on said petition having been conducted on January 5, 1981 at Waukesha, Wisconsin, by Edmond Bielarczyk, Jr., Examiner; and post hearing briefs having been exchanged on March 16, 1981; and the Commission having considered the evidence and the briefs of the parties and being fully advised in the premises issues the following Findings of Fact, Conclusion of Law and Order Clarifying Bargaining Unit.

5. That the position of Secretary to the Supervisor of Buildings and Grounds was created in 1975; that Helen Luedke occupied said position until September 15, 1980; that upon the resignation of Luedke said position

was filled on a temporary basis by Joan Bell; that Bell is presently included in the clerical bargaining unit described in para. 3 above; and that Bell has performed all of said position's duties and responsibilities, which are clerical, typing, accounting, filing, stock inventory and control; that Bell's typing duties include the typing of letters and memoranda relating to employe hiring, discipline, termination, and grievances, typing of fifty percent of Jacobucci's personal notes concerning contract negotiation sessions, and the typing of a master list of work orders; that the general clerical duties of said Secretary include receiving, sequencing and recording work orders, review of maintenance crew time logs and recording of logs, and maintaining of log of days used by maintenance employes for vacation, personal, compensatory time and funerals; that Bell has access to and maintains files related to employe hiring, discipline, termination and grievances and has access to Jacobucci's files, which include Jacobucci's files concerning labor negotiations; that the vast majority of duties of the Secretary do not involve confidential matters relating to labor-management relations; and that therefore the occupant of said position is exposed to no more than a de minimus amount of confidential information regarding labor relations matters.

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

CONCLUSION OF LAW

That the position of Secretary to the Administrative Assistant Supervisor of Buildings and Grounds is not a confidential position and, therefore, the occupant of that position is a "municipal employe" within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act.

ORDER CLARIFYING BARGAINING UNIT

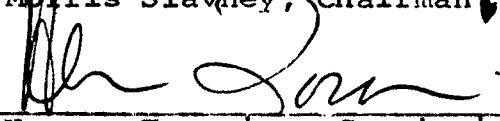
That the position of Secretary to the Administrative Assistant Supervisor of Buildings and Grounds shall remain included in the bargaining unit described in para. 3 of the Findings of Fact.


Given under our hands and seal at the  
City of Madison, Wisconsin this 30th  
day of March, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner

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

The District, contrary to the Union, contends that the duties and responsibilities of the Secretary to the Supervisor of Buildings and Grounds had changed substantially in the last four years to warrant its exclusion as a confidential position from the bargaining unit represented by the Union. Said position is currently occupied, on a temporary basis, by Joan Bell, and it has been included in said bargaining unit.

The District argues that the Secretary has access to confidential materials related to labor relations, that the occupant spends a portion of her time preparing confidential labor relations materials, that the duties of said Secretary have changed as the duties of her Supervisor have expanded into the areas related to the collective bargaining process, and that the District intends to further expand the duties of said Supervisor in the collective bargaining process, which will require said Secretary to have more extensive access, knowledge of, and exposure to confidential matters.

The Commission has consistently held that an employee is excluded from a unit as confidential, when that employee's participation in the municipal employer's labor relations function, or where the employee has access to sensitive labor relations information. Any other sense of the term "confidentiality", in either the role of the employee or to materials which the employee has access, is immaterial to the question of the employee's status as a confidential employee. 1/ In order for information to be considered confidential it must be of the type that deals with the employer's strategy or position in collective bargaining, contract administration, litigation or other similar matters relating to labor relations between the bargaining representative and the employer, and must not be available to the bargaining representative or its agent. 2/

The record demonstrates that in all meetings between Jacobucci and employees concerning discipline, termination or grievances, a Union official is present. Further, Jacobucci responds verbally to said matters, writes a written response, which said Secretary then types and files a copy, with the typed response, sent to the employee and carbon copies to the Union. As the Union has access to said information the typing of said matters simply does not provide a basis for concluding that said data is confidential.

Jacobucci testified that he has participated in negotiating one collective bargaining agreement which involved twelve to fourteen bargaining sessions. Jacobucci assigned his Secretary to type his personal notes concerning said sessions. Jacobucci shares his personal notes with other bargaining team members but does not share them with the Union. However,

---

1/ Kenosha County Assistant Attorney's Association, (15371), 3/77.

2/ Cooperative Education Association Agency No. 4, (14177-A), 7/80;  
Wisconsin Heights School District, (17182), 8/79; Juneau County,  
(12814-A), 8/78; City of Menasha, (14523), 4/76.

the Union representatives were present at the bargaining sessions. The record does not establish that Jacobucci's notes related to confidential matters.

It has previously been held by the Commission that an employee spending a de minimus amount of time on confidential labor relations matters, need not be excluded from the collective bargaining unit. 3/

The District avers that said Secretary has access to confidential files relating to labor relations, since said files are located in Jacobucci's office. Jacobucci can limit the Secretary's access to same.

The District argues that it intends to further expand Jacobucci's duties and responsibilities with respect to labor relations matters and he will require the Secretary to have more extensive access, knowledge of, and exposure to confidential matters. The record demonstrates that no such reliances have occurred as yet. Therefore this proposed role for the Secretary to the Supervisor of Buildings and Grounds is too speculative at this time to warrant its exclusion from the bargaining unit as confidential. 4/


Based on the above and foregoing reasons, the Commission concludes that the position of Secretary to the Supervisor of Buildings and Grounds performs, at most, a de minimus amount of confidential work, and therefore is not a confidential employee within the meaning of the Municipal Employment Relations Act. Therefore, said position shall remain in the clerical collective bargaining unit.

Dated at Madison, Wisconsin this 30th day of March, 1981.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

  
Morris Slavney, Chairman

  
Herman Torosian, Commissioner

  
Gary L. Covelli, Commissioner

sg

---

3/ Cooperative Education Service Agency No. 4, supra; Wisconsin Heights School District, supra; Onalaska Jt. School Dist. No. 1, (15339), 3/77; Adams Friendship Jt. School Dist. No. 1, (13478), 3/75; Eau Claire Public Library, (10789), 2/72; Sheboygan Board of Education, (10488), 8/71; Cudahy Board of Education, (2087), 8/73; Jefferson Jt. School District No. 1, (15336), 3/77; Menomonee Falls Jt. School Dist. No. 1, (11669), 3/73.

4/ Kenosha County, (15371), 3/77; Manitowoc County, (8152-C), 6/79.