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In the Matter of the Petition of :  
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LaCROSSE PUBLIC SCHOOL SECRETARIAL :  
ASSOCIATION :  
 :  
Involving Certain Employees of :  
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LaCROSSE AREA JOINT SCHOOL DISTRICT :  
NO. 5 :  
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Appearances:

Mr. David L. Kampschroer, Director of Personnel, appearing on behalf of the District.

LaCrosse Public School Secretarial Association having, on November 14, 1978, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to clarify an existing certified collective bargaining unit consisting of certain secretarial employees of the LaCrosse Area Joint School District No. 5; and a hearing in the matter having been held at LaCrosse, Wisconsin, on January 30, 1979, before Douglas V. Knudson, a member of the Commission's staff; and post-hearing briefs having been received from the parties by March 10, 1979; and the Commission, having considered the evidence and arguments of the parties, issues the following Findings of Fact, Conclusions of Law and Order Clarifying Bargaining Unit.

1. That the LaCrosse Public School Secretarial Association, herein referred to as the Association, is a labor organization with offices at 1233 South 14th Street, LaCrosse, Wisconsin 54601.

2. That the LaCrosse Area Joint School District No. 5, herein referred to as the District, is a municipal employer with offices at 432 Cass Street, LaCrosse, Wisconsin 54601.

3. That the Association is the certified exclusive representative of the collective bargaining unit consisting of all full-time and regular part-time secretarial employees of the School District of LaCrosse, including receptionists, bookkeepers, payroll clerks, special services clerks, assistant manager of payroll, assistant manager of accounts payable and secretarial employees hired under Federal programs, but excluding confidential, supervisory and managerial employees, including the Executive Secretary to the Administrator of Personnel, Executive Secretary to the Superintendent, and all other employees of the District.

No. 15710-A

5. That Elizabeth Mielke, occupying the position of Secretary of Board Office Records, does not have access to, have knowledge of, or participate in confidential matters relating to labor relations.

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

#### CONCLUSIONS OF LAW

1. That the positions of Executive Secretary to the Director of Instructional Services and Executive Secretary to the Director of Operations are confidential positions, and, therefore, the occupants of said positions are not municipal employees within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act.

2. That the occupant of the position of Secretary of Board Office Records is a municipal employee within the meaning of Section 111.70(1)(b) of the Municipal Employment Relations Act.

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

#### ORDER CLARIFYING BARGAINING UNIT

That the position of Secretary of Board Office Records shall be included in the bargaining unit described above; and, that the positions of Executive Secretary to the Director of Instructional Services and Executive Secretary to the Director of Operations shall be excluded from the bargaining unit described above.

Given under our hands and seal at the  
City of Madison, Wisconsin, this *11th*  
day of May, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By

*Morris Slavney*

Morris Slavney, Chairman

*Herman Torosian*

Herman Torosian, Commissioner

*Marshall L. Gratz*

Marshall L. Gratz, Commissioner

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

The Association is the certified bargaining representative of certain secretarial and clerical employees of the District. On November 14, 1978, the Association filed the instant petition, requesting the Commission to include three newly created positions in the bargaining unit. Said positions are the Executive Secretary to the Director of Instructional Services, the Executive Secretary to the Director of Operations, and the Secretary of Board Office Records.

The District argues that all three positions either perform, or will perform, duties involving confidential labor relations. Those duties include the preparation of labor relations information which may not be released to bargaining unit representatives and participation in meetings at which grievances and contract negotiations are discussed. Therefore, said positions should be excluded from the bargaining unit.

The Association contends that the Secretary of Board Office Records has no access to confidential matters relating to labor relations. The other two secretaries spend only a de minimis amount of their time on confidential work, which work could be performed by other confidential employees. Further, the secretaries should not be excluded on the basis of speculative future confidential duties.

There are approximately thirty-seven employees in the bargaining unit represented by the Association. Three positions previously were excluded from the unit because of the confidential nature of their duties. Said positions were the Executive Secretary to the Director of Personnel, the Executive Secretary to the Superintendent, and the Assistant to the Secretary to the Board. The latter position was eliminated and the incumbent employee was moved to the newly created position of Secretary of Board Office Records. The other two new secretarial positions were filled by the hiring of new employees.

In August 1978, the District implemented a cabinet form of administration, under which four persons began meeting regularly, at a minimum of once a week and sometimes on a daily basis, to deal with management problems as a team. Said four persons hold the positions of Superintendent, Director of Operations, Director of Personnel, and Director of Instruction. Collectively they supervise the activities of twenty-six other administrative and managerial employees. As a part of the administrative reorganization, three new secretarial positions, those at issue herein, were created.

During contract negotiations, the Cabinet members serve on the District's negotiating committees. Each Cabinet member is also involved in the administration of labor contracts with District employees, including the preparation of responses to employee grievances. When a grievance from a bargaining unit employee is processed to a Cabinet member, he prepares a tentative response which is then discussed by the Cabinet for possible alternation prior to the response being given to the grievant. Similarly, the Cabinet develops bargaining strategies, reviews the cost impact of alternate proposals, and prepares proposals for use in contract negotiations with the five existing bargaining

units of District employees. Since the implementation of the Cabinet form of administration, the District has been in contract negotiations with only one of the bargaining units. 1/

#### Executive Secretary to the Director of Instructional Services

Dency Gunderson was hired for this position in December 1978. She will be expected to type reports containing proposals pertaining to the maintenance and/or alteration of certain curricular elements in the District's instructional programs. Such proposals could affect the structure and size of the bargaining units if adopted by the Cabinet. Gunderson will be expected to type grievance answers and materials relating to contract negotiations for presentation to the Cabinet. She attends Cabinet meetings and is, therefore, privy to the development of collective bargaining proposals and collective bargaining strategies. As of the hearing, Gunderson had typed one tentative grievance response and was present during the Cabinet's discussion and approval of said response.

The Commission is satisfied that Gunderson will have access to and knowledge of confidential matters relating to labor relations. Although such participation has been limited by her short term of employment, it is clear that her involvement will be expanded in the future. Accordingly, the position of Executive Secretary to the Director of Instructional Services is appropriately excluded from the collective bargaining unit.

#### Executive Secretary to the Director of Operations

Jane Barstow was hired for this position in January 1979. Therefore, much of the evidence concerning her performance of confidential duties is based on anticipated future assignments.

The Director of Operations actively participates in collective bargaining sessions and is involved in the preparation of responses to employee grievances. It is anticipated that Barstow will type tentative negotiating proposals, cost impact statements or alternate proposals, minutes of Cabinet strategy sessions, and proposed responses to grievances for the Director. Those materials are not made available to the employee organizations, unless the Cabinet approves of such release. Barstow does attend Cabinet meetings.

In light of Barstow's anticipated involvement in preparations for the bargaining process and her access to tentative grievance responses and instructional program evaluations, she is found to be a confidential employee and, therefore, excluded from the collective bargaining unit.

The Commission concludes that the duties of the two positions discussed above are not de minimis in nature. Further, the confidential duties of said positions appear to be closely related to the labor relations responsibilities of the Directors for whom they work. The assignment of such confidential duties to other confidential employees would be unduly disruptive of the District's administrative organization. Four employees is not an inordinately large number of confidential employees to be excluded from a bargaining unit of the size involved herein.

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1/ Due to the relatively short span of time between the reorganization affecting the instant positions and the instant hearing, the evidence concerning duties has been, to an extent, predictive rather than descriptive. While we are satisfied that the resultant allocation of confidential status is reasonable, the Union is free to seek a subsequent determination of the instant issues in the event that the actual duties performed over time by the individuals involved vary significantly from those upon which the instant determinations have been based.

Secretary of Board Office Records

This position is currently held by Elizabeth Mielke, who previously held the position of Assistant to the Secretary of the Board.

Mielke's current duties do not involve contract negotiations, except for the compilation and preparation of information. Her role with respect to that information, which incidentally is also available to bargaining unit employees, does not appear likely to give Mielke reason to know the bargaining strategies and alternatives under active consideration by the Employer. Currently, Mielke is reviewing various documents so as to collect all of the District's policies into one proposed manual for the administration's approval. She takes minutes of the District Board's public sessions, but does not attend the Board's executive sessions. On the basis of the foregoing, the Commission concludes that Mielke does not have access to confidential matters relating to labor relations. Therefore, the position of Secretary of Board Office Records is included in the bargaining unit.

Dated at Madison, Wisconsin, this 11<sup>th</sup> day of May, 1979.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Morris Slavney  
Morris Slavney, Chairman

Herman Torosian  
Herman Torosian, Commissioner

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