

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

-----

In the Matter of the Petition of	:	
	:	
HOWARD-SUAMICO OFFICE SUPPORT	:	
AND AIDES ASSOCIATION/WEAC	:	Case 16
	:	No. 39548 ME-221
Involving Certain Employees of	:	Decision No. 22731-A
	:	
HOWARD-SUAMICO SCHOOL DISTRICT	:	
	:	

-----

Appearances:

Ms. Melissa A. Cherney, Staff Counsel, Wisconsin Education Association Council, 101 West Beltline Highway, P. O. Box 8003, Madison, Wisconsin 53708, appearing on behalf of the Petitioner.

Mulcahy & Wherry, S.C. Attorneys at Law 414 East Walnut Street P.O. Box 1103 Green Bay, Wisconsin 54305-1103, by Mr. Robert W. Burns, appearing on behalf of the Howard-Suamico School District.

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

Howard-Suamico Office Support and Aides Association/WEAC having, on October 19, 1987, filed a petition with the Wisconsin Employment Relations Commission requesting the Commission to clarify an existing bargaining unit consisting of secretaries and aides employed by the Howard-Suamico School District to include three positions within the District's central office; and after efforts by the parties to settle the dispute were unsuccessful, a hearing in the matter having been scheduled and conducted on April 29, 1988, at Green Bay, Wisconsin, before Examiner Karen J. Mawhinney, a member of the Commission's staff; and the parties having completed their briefing schedule on July 18, 1988; and the Commission, being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. That the Howard-Suamico Office Support and Aides Association/WEAC, referred to herein as the Association, is a labor organization with its offices at 101 West Beltline Highway, Madison, Wisconsin.
2. That the Howard-Suamico School District, referred to herein as the District, is a municipal employer, and has its offices at 2700 Lineville Road, Green Bay, Wisconsin.
3. That pursuant to Howard-Suamico School District, Dec. No. 22731 (WERC, 7/85), and after an election conducted by the Commission, the Association was certified as the exclusive bargaining representative of the following bargaining unit:
 

all regular full-time and regular part-time secretaries and aides employed by the Howard-Suamico School District, excluding managerial, supervisory and confidential employees.
4. That the Association now seeks to include within the bargaining unit described above three of four positions in the District's central office; that those positions are (1) the secretary/accounts payable clerk, (2) the secretary/receptionist/payroll clerk, and (3) the controller/computer coordinator; that the District contends that all three positions should be excluded as confidential; that the District further contends that the position of controller/computer coordinator has managerial functions and that the position is neither a secretary or aide position within the scope of the bargaining unit; that there is another secretary in the District's central office, a position occupied by Lois Rehn, who is the secretary to the District Administrator; that Rehn's position is not in the bargaining unit and is not in dispute in this proceeding; that there are 12

secretarial positions in the bargaining unit; that the District bargains with two other units -- the custodial unit and the teacher unit; that the District Administrator plays a direct role in the bargaining with the teacher unit; and that Rehn types all confidential matter related to the teacher bargain and administration of the teacher contract.

5. That the written job description currently in effect for the position of secretary/accounts payable clerk contains the following list of description of duties:

Provide typing of documents of a confidential nature such as staff evaluations, grievances, letters of recommendation and discipline, initial and counter proposals during support staff union negotiations

Provide typing of documents of a nonconfidential nature such as state reports and general correspondence

Update and maintain employee manuals and internal management procedures

Serve as district resource person by answering questions regarding variety of fiscal management policies and procedures from support staff and administrative personnel

Maintain file on applicants for positions in the custodial and food service area

Responsible for the maintenance of support staff personnel records

Insure the integrity of the district's voucher and bill payment system by monitoring purchase orders and bills received for payment to insure procedures are followed and goods received.

Serve as liaison between vendors and district personnel in the purchase of foods and services

Provide data entry back-up in the areas of budgeting and inventory control

Collect monthly commodity and food inventories and document on pertinent report forms

Collect daily school lunch participation data and prepare portion of monthly state report

Maintain file of free and reduced meal applications. Assist in the verification procedures to determine eligibility

Responsible for the daily deposit of monies received in the district office

Responsible for the management of NSF checks received in the district office, correspond with responsible party and develop collection procedures

Register new students into the district and coordinate information with the pertinent school

Assist in the establishment of district attendance areas. Work with the public in the explanation of same

Assist in the establishment of transportation routes, serve as district liaison between the bus companies and the public

Perform other related duties as assigned by the Director of Business Services

This job description indicates the kinds of tasks and levels of work difficulty that will be given this title and shall not be construed as declaring what the specific duties and responsibilities of any particular position shall be. It is not intended to limit or in any way modify the right of any supervisor to assign direct and control the work of employees under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of a similar kind or level of difficulty;

that the written job description currently in effect for the position of secretary/receptionist/payroll clerk contains the following list of description of duties:

Provide typing of documents of a confidential nature such as staff evaluations, grievances, letters of recommendation and discipline, initial and counter proposals during support staff union negotiations.

Provide typing of documents of a non-confidential nature such as district newsletter, Communique, and general correspondence.

Sort all incoming regular and interschool mail. Stamp and weigh all outgoing regular and interschool mail. Complete daily balancing of postage meter.

Review monthly mileage claims for accuracy and for compliance with Board of Education transportation policy.

Review and maintain file on staff workshop requests to insure compliance with Board policy. Reconcile with subsequent travel claim reimbursement requests.

Responsible for inventory control and ordering of district office supplies.

Provide data entry assistance during budget formulation.

Responsible for the maintenance and updating of district fixed asset inventory.

Answer telephones and greet visitors to the district office.

Type and distribute school lunch menus to schools and the media.

Maintain detailed record of support staff and instructional staff, sick leave, vacation and other absences. Determine the accuracy of support staff time cards submitted to District Office.

Sign all payroll and accounts payable checks using check signer.

Responsible for maintenance of support staff payroll records.

Assist Board of Education secretary in the maintenance of instructional staff payroll records.

Enter payroll data into CPU.

Prepare monthly payroll of student helpers from petty cash fund; replenish petty cash.

Perform other related duties as assigned by the Director of Business Services.

This job description indicates the kinds of tasks and levels of work difficulty that will be given this title and shall not be construed as declaring what the specific duties and responsibilities of any particular position shall be. It is not intended to limit or in any way modify the right of any supervisor to assign, direct and control the work of employees under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of a similar kind or level of difficulty;

that the above descriptions of duties were changed in January of 1988; that the previous job descriptions did not show that either secretary handled any confidential documents or matters; that the District was contemplating a change in job descriptions at the time it hired a new Director of Business Services in August of 1987; that the new Director, John Keller, unlike his predecessor, became responsible for negotiations with the secretarial and custodial bargaining units and therefore revised the secretaries' job descriptions to reflect the bargaining responsibilities of his position; and that the process for changing the job descriptions started before the filing of the instant petition but was not formally completed until after the instant petition was filed.

6. That the incumbent of the position of secretary/accounts payable clerk is Nancy Blake; that Blake functions as Keller's secretary; that the incumbent of the position of secretary/receptionist/payroll clerk is Theresa Hornick; that Keller is the immediate supervisor of both Blake and Hornick; that since Keller started working at the District, Blake has typed the District's initial bargaining proposal for the custodial bargaining unit, a proposal which was shared with the union; that Blake has typed correspondence relating to two grievances including correspondence between Keller and the District's attorney; that in the last six months, Hornick has typed the rough and final draft of one response to a grievance, one letter notifying an employe of a disciplinary action, and five or six letters relating to two separate grievances; that Hornick has also typed an internal management memo dealing with collective bargaining strategy; that either or both secretaries would in the future type bargaining proposals which would not be seen by any of the unions; that both secretaries have called other school districts to gather comparable data on rates of pay; that all of the people in the central office have access to the filing cabinets, the combination to the District's vault, and the master key for the central office; that the District anticipates that either of them will in the future type correspondence to the District's labor attorney and/or the Board of Education regarding possible alternative bargaining proposals as bargaining progresses; that neither secretary has been involved in costing bargaining proposals; that neither secretary has attended meetings in which labor relations matters were discussed; that both secretaries have access to files relating to both negotiations and personnel matters; that neither secretary has investigated an employe's behavior that might result in discipline; that neither secretary has participated in developing answers to grievances; and that neither Blake nor Hornick have sufficient access to, knowledge of or participation in confidential matters relating to labor relations to be deemed confidential employes.

7. That the written job description for the position of controller/computer coordinator is as follows:

JOB GOAL: Provide administrative assistance for the:  
1) Control of District funds  
2) Operation of the District Computer System  
3) Production of computer reports

QUALIFICATIONS:

1. Technical school graduate in accounting
2. 1-3 years of experience in accounting, bookkeeping, payroll, general office practices
3. Trained and experienced on the District computer system and Micro computers

4. Ability to operate efficiently and understand calculator, mini computers, computer terminal, computer printers, typewriter, and micro computer
5. Ability to perform assigned daily duties with minimum of direction
6. Ability to establish and maintain effective public and co-worker relationships
7. Good work habits, punctuality, responsibility, honesty, and reliability - a self starter
8. Average typing skills (50-60 words per minute)

**DUTIES AND RESPONSIBILITIES:**

1. Prepare and input receipt journal entries
2. Assist, input and print budget information
3. Accounting of District financial records and file related claims
4. Assist in maintaining records for District personnel--vacation leave, insurance records, etc.
5. Utilization of computer in maintenance of District accounting and other records
6. Assist District auditors with end of year audit of school financial records. Completes DPI Fall Budget and Annual reports.
7. Act as back up of District Administrator's secretary and Director of Business Service's secretary
8. Prepare state and federal financial reports, including federal project reports, lunch reports, budget reports, annual reports, pool sales tax reports, etc.
9. Reconciliation of monthly bank statements for all district funds. Reconcile bank statements to computer reports. Balances all funds monthly.
10. Assist in the updating of the equipment inventory
12. Print out monthly (and as needed) financial reports
13. Assist in the instructional and custodial bids and complete necessary forms for all other bids
14. Maintains confidential all data
15. Aids in the processing of purchase orders, encumber, match with invoices and make payments. This includes the input of data into the computer.
16. Prepare Board Treasurer's report monthly
17. Responsible for overall operation and control of the District Computer System and peripherals
  - operates and performs work on special projects
  - schedules jobs to be run on timely basis
  - ensures integrity of data
  - maintains log of hardware and software malfunctions
  - helps in training of personnel
  - serves as a security officer
  - runs daily backups
  - distributes reports to requestor
  - performs problem determination
  - recommends "Query" report development
  - update/maintain operational documentation
18. Provides necessary cash flow data to assist in the investments of District funds
19. Serves as "backup" for other District Office positions
20. Performs other duties as may be assigned.

This job description indicates the kinds of tasks and levels of work difficulty that will be given this title and shall not be construed as declaring what the specific duties and responsibilities of any particular position shall be. It is not intended to limit or in any way modify the right of any supervisor to assign, direct and control the work of employees

under supervision. The use of a particular expression or illustration describing duties shall not be held to exclude other duties not mentioned that are of a similar kind or level of difficulty;

that the incumbent of the position of controller/computer coordinator is Betty Zimdars; that Zimdars has worked for the District since February 1, 1988; that Zimdars is designated as a master security officer on the computer, along with Keller and the District Administrator, Frederic Steig; that as master security officer, Zimdars has full access to all the files and records in the District; that Zimdars may restrict others' access to any computer program and may change pass words or codes that allow others to use certain computer programs; that Zimdars is responsible for costing the bargaining proposals for all three unions and costing proposals for nonunion personnel; that Keller and Steig have given her either dollar figures or a specific percentage figure to compute as a projected increase for bargaining unit members or other employees; that Zimdars does not develop strategy for bargaining but that in costing proposals as bargaining progresses, she will have knowledge of proposals which are not presented to the unions as well as of the proposals which will be presented; that Zimdars makes recommendations about software and hardware computer equipment for the District; that Zimdars trains other District personnel on computer matters; that Zimdars does not perform routine or traditional secretarial duties, such as typing or entering data on the computer or filing; that Zimdars has not attended any executive sessions where labor relations matters were discussed; that Zimdars has not investigated another employee's behavior that might result in discipline; that Zimdars has not developed answers to grievances; that Zimdars has not taken part in the preparation of an arbitration case or been involved in any litigation involving labor relations matters; that Zimdars is responsible for managing the District's cash flow, investing District funds, reconciling bank accounts and making financial reports to the School Board; that in investing the District's funds in various financial institutions, Zimdars has a limited amount of discretion in determining how much money to invest and in picking the appropriate financial institution; that the School Board has predetermined which financial institutions may be used for investing the District's funds and then Zimdars negotiates with those institutions to seek the highest interest rate available before choosing a particular institution; that Zimdars is also limited in investing funds by the District's cash flow needs for current bills and salaries and by auditors' recommendations about how much money can be placed in any single institution; that Zimdars works with the District's budget by classifying salaries and benefits and expenses into certain account numbers; that Zimdars has sufficient access to, knowledge of or participation in confidential matters relating to labor relations so as to render her a confidential employee.

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

#### CONCLUSIONS OF LAW

1. That the occupants of the positions of secretary/accounts payable clerk and secretary/receptionist/payroll clerk are not confidential employees and therefore are municipal employees within the meaning of Sec. 111.70(1)(i), Stats.
2. That the occupant of the position of controller/computer coordinator is a confidential employee and therefore is not a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

On the basis of the above and foregoing Findings of Fact and Conclusions of

2. That the position of controller/computer coordinator is excluded from the bargaining unit represented by the Petitioner.

Given under our hands and seal at the City of  
Madison, Wisconsin this 14th day of September,  
1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld  
Stephen Schoenfeld, Chairman

Herman Torosian  
Herman Torosian, Commissioner

A. Henry Henpe  
A. Henry Henpe, Commissioner

---

1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing. The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the

(Footnote 1/ continued on page 8)

---

1/ continued

county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

. . .

(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.



HOWARD-SUAMICO SCHOOL DISTRICT

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

BACKGROUND

The Association represents a bargaining unit of 12 secretaries and aides employed by the District. There are also four secretarial or clerical positions in the District's central office, and the Association now seeks to include three of those positions in the unit. Those positions are the secretary/accounts/payable clerk (held by Nancy Blake), the secretary/receptionist/payroll clerk (held by Theresa Hornick), and the controller/computer coordinator (held by Betty Zimdars). The Association does not seek to include the fourth position in the central office, as the parties agree that the position of the District Administrator's secretary (held by Lois Rehn) is confidential. The District objects to the inclusion of the three positions in dispute on the grounds that all three positions are confidential in nature. The District further contends that the position of the controller/computer coordinator is neither a secretarial or an aide position properly within the bargaining unit, and that the controller/computer coordinator has managerial functions.

THE PARTIES' POSITIONS:

The District:

The District raises a threshold issue concerning the position of the controller/computer coordinator. It contends that since the incumbent works in the area of accounting, budget management, and investing District funds, but does not perform traditional secretarial duties, this position would not be properly placed within the express recognition and certification of the bargaining unit of secretaries and aides. The bargaining unit is not described as "all office personnel," the District notes, and therefore the position is outside the scope of this unit.

If that position were found to be a secretary or aide position, the District next argues that it should be excluded as a confidential position. The District points out that the incumbent, Zimdars, is a master security officer on the District's computer and controls access to all of the District's files in the computer. Zimdars may restrict the access of others on the computer, and may see any confidential materials such as closed session minutes, confidential letters and memos, and discipline records. Zimdars is also responsible for costing bargaining proposals for all of the bargaining units, including some proposals which will not be shared with the three unions bargaining with the District.

In addition to the confidential nature of Zimdars work, the District asserts that Zimdars exercises discretion in the District's budgeting and investments that gives her managerial functions. According to the District, Zimdars determines where the District will invest its funds, based on various criteria. Zimdars handles all of the District's cash flow and financial matters, as well as categorizing salaries and budget information. Zimdars evaluates and makes recommendations on computer equipment for the District, and trains District personnel on the computer.

Turning to the other two secretarial positions, the District asserts that these positions are confidential, partly on the basis that the new Director of Business Services, Keller, has taken on increased labor relations responsibilities and that Keller is entitled to confidential clerical support. Unlike his predecessor, Keller is responsible for handling the clerical and custodial bargaining units. Additionally, the District argues that since Keller had been at the District for only nine months at the time of the hearing, it would be unfair to look only at the quantity of confidential work taken on by the secretaries under his direction in a relatively short period of time. Only one contract opened up since Keller took his position, and the need for confidential clerical support work will increase, the District contends.

The District argues that Blake, the secretary/accounts payable clerk, is the direct secretary to Keller, and is involved in typing correspondence, potential

bargaining proposals, counterproposals, and other sensitive materials during contract negotiations. Blake also types correspondence to the District's attorneys, internal strategy memos and materials that cannot be disclosed to the unions. The District argues that Hornick, the secretary/receptionist/payroll clerk, is similarly involved in typing internal memoranda, potential bargaining proposals, grievance letters, and correspondence to the District's attorneys. Both Blake and Hornick have done more confidential work since Keller arrived, the District asserts.

Finally, the District contends that the physically small work space would make it impossible for the employees in the central office to preserve the confidentiality of materials if the Association were successful in bringing one or more of these positions into the bargaining unit. All of these employees know the combination for the vault, have access to keys and files, and can see each other's computer screens. While the District Administrator's secretary, Rehn, has a private office, the other three work in close proximity. Rehn does not have the capacity to take on more of the confidential work, the District states. Therefore, the District urges that all three positions in dispute be excluded from the bargaining unit.

#### The Association:

In answering the District's argument that the controller/computer coordinator is neither a secretary nor an aide within the description of the bargaining unit, the Association contends that this position is within the broad generic term "secretary." Moreover, the Association asserts that the issue is whether the position is appropriately included in the unit and shares a community of interest with other members of the bargaining unit. The Association contends that the controller/computer coordinator has duties and skills that are secretarial in nature and similar to others in the unit. Many other unit members use a computer, the Association notes, and there is common supervision and a common workplace with other secretaries.

The Association also disputes the District's contention that the controller's costing of bargaining proposals is confidential work, stating that the incumbent, Zimdars, is only given figures to compute and is not privy to labor relations strategy. Zimdars has not attended negotiating meetings or participated in the development of bargaining proposals, the Association argues. Also, the Association claims that Zimdars' time spent on alleged confidential duties is de minimus, since she has performed costing on only one occasion in the last six months.

Zimdars is not a managerial employe, the Association contends, since her responsibilities regarding the budget and investing the District's funds are routine. The Association notes that Zimdars does not determine salaries, she only categorizes them. Likewise, the Association argues that her investing funds is routine work, as she gets the best interest rate from institutions which have been selected by the School Board. The Association considers Zimdars' costing and investing activities to be ministerial rather than managerial.

None of the disputed positions should be deemed confidential, the Association argues. It notes that the new job descriptions are not dispositive and that the actual duties of the employes should be considered. For example, both Hornick and Blake could only recall a couple of occasions where they typed letters of correspondence relating to grievances. The Association contends that the fact that these employes have access to personnel files is not a reason to exclude them from the unit, since that access is usually shared by the affected employe and, with the employer's approval, the unions. Also, access to budgetary records should not be considered confidential because the records are public documents, the Association asserts. These employes have had access to personnel and budget matters but not to any bargaining strategy or confidential labor relations matters, the Association argues. They have not been asked for their input on answering grievances, or been involved in developing bargaining proposals, or participated in arbitration cases or litigation of cases involving labor relations, or attended any executive sessions. While Zimdars has costed bargaining proposals for the District, Blake and Hornick only type figures that Zimdars has costed. Any confidential work that they have done is de minimus, the Association contends.

The Association points out that there is another confidential secretary, Rehn, available to do the work of the District's central office. It argues that employes should not be excluded where their confidential duties are de minimus and there is another confidential employe available for such work. The District is attempting to spread the minimal amount of confidential work out to four different secretaries and would exclude one-fourth of the potential members of the bargaining unit, the Association contends.

Finally, the physical proximity of the central office secretaries' work stations should not be a basis for excluding them, as the Association maintains that the District has the capability of securing any confidential documents, whether those documents are on the computer or in traditional files.

#### DISCUSSION:

The Commission has consistently held that in order for an employe to be considered a confidential employe and thereby excluded from a bargaining unit, the employe must have access to, knowledge of, or participate in confidential matters relating to labor relations. Information is confidential if it is the type that (1) deals with the employer's strategy or position in collective bargaining, contract administration, litigation, or other similar matters pertaining to labor relations, and (2) is not available to the bargaining representatives or its agents. 2/ A de minimus exposure to confidential materials is insufficient grounds for excluding an employe from a bargaining unit. 3/

The confidential exclusion protects a municipal employer's right to conduct its labor relations through employes whose interests are aligned with those of management, rather than risk having confidential information handled by people with conflicting loyalties who may be subjected to pressure from fellow bargaining unit members. 4/ However, we have said that an employer clearly cannot be allowed to exclude an inordinately large number of employes by spreading the work of a confidential nature among such employes or giving them occasional tasks of a confidential nature. 5/ We have also held that the physical proximity of confidential and nonconfidential employes or the effect of a finding of a confidential status or nonconfidential status on the sociometry of the work place are not appropriate considerations in making a determination of whether employes are confidential employes. 6/ Lastly, it should be noted that access to personnel files is not typically sufficient to confer confidential status because the information contained therein is typically accessible to employes or their union 7/ and because the employer can limit access if it chooses. 8/

---

2/ Sheboygan County, Dec. No. 7671-A (WERC, 1/88).

3/ Boulder Junction Joint School District, Dec. No. 24982 (WERC, 11/87).

4/ Cooperative Educational Service Agency No. 9, Dec. No. 23863-A (WERC, 12/86).

5/ Marshfield Joint School District, No. 1, Dec. No. 14575-A (WERC, 7/76).

6/ Ibid.

7/ Appleton Area School District, Dec. No. 22338-B (WERC, 7/87).

8/ Waukesha Joint School District No. 1, Dec. No. 10823-A (WERC, 3/81).

Of the four central office positions, the parties have agreed to the exclusion of one position as confidential. In this proceeding, the District seeks the continued exclusion of the other three central office positions as confidential employees.

As to Blake and Hornick, the Association correctly notes that neither employe had done any significant amount of confidential work at the time of the hearing. The amount of confidential work performed is reflective of both the recent nature of Keller's assumption of bargaining and contract administration responsibilities as well as of the fact that Keller is only responsible for two small units which will be unlikely to generate large amounts of confidential work. However, where, as here, the employer has made a good faith decision to restructure the manner in which bargaining responsibilities have previously been allocated and where, as here, the result of that change has to our satisfaction given significant bargaining responsibility to a management employe, the clerical employe assigned to that management employe as his or her secretary will be found to be confidential even where the actual amount of confidential work is not significant unless the confidential work can be assigned to another confidential employe without undue disruption of the employer's organization. 9/ Here, application of the foregoing would warrant excluding Blake, Keller's secretary, as confidential unless the confidential work Keller's responsibilities produce could be readily performed by another confidential employe. As noted earlier, the District Administrator's secretary has been excluded by agreement of the parties as a confidential employe. Although the District Administrator testified that his secretary does not have enough time to perform Keller's confidential work, we note that she performed said work before Keller assumed his responsibilities (Tr. 98). We also note that Zimdars, the controller, has the skills (Tr. 123-124) and the formal responsibility (Tr. 66, Emp. Ex. 5) to provide back up clerical assistance to Blake and Hornick. Lastly, the record establishes that all the individuals in question work in close physical proximity to each other. Therefore, under these circumstances, we are persuaded that it would not be unduly disruptive for the District to have Rehn and/or Zimdars perform Keller's confidential work. 10/ Therefore, we are persuaded that Blake and Hornick are not confidential employes as neither has performed any significant amount of confidential work and as the confidential work in question which Keller will generate in the future can readily be performed by other confidential employes of the District.

Zimdars is responsible for costing the bargaining proposals for all three bargaining units and for nonunion personnel. While she is not involved in determining the strategy for bargaining, she is privileged to information that the unions may not receive as bargaining progresses. Furthermore, she is the only employe trained in costing proposals on the computer. The other confidential secretary is not capable of doing such work. 11/ Finally, Zimdars has access to all information and files held by the District. Since Zimdars is a master security officer on the computer and has the ability to change anyone's codes and restrict their access to various data on the computer, it would be difficult for the District to restrict Zimdars' access to files and information without changing all of its procedures and unduly disrupting its organization. Given the foregoing, we will exclude from the bargaining unit the position held by Zimdars

---

9/ La Crosse School District, Dec. No. 15710-A (WERC, 5/79); See also City of Greenfield, Dec. No. 25646 (WERC, 8/88), (WERC, 12/86).

10/ See School District of Bruce, Dec. No. 19318-A (WERC, 5/83); Wausaukee Schools, Dec. No. 15620-A (WERC, 6/83); City of Port Washington, Dec. No. 21205-A (WERC, 11/84).

11/ See Laona School District, Dec. No. 22825 (WERC, 8/85), where we excluded the only employe trained to use the computer for costing proposals, despite the presence of another confidential employe.

as a confidential employe. 12/ Inasmuch as we would exclude this position as confidential, we find it unnecessary to address the District's other arguments regarding this position.

Dated at Madison, Wisconsin this 14th day of September, 1988.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By Stephen Schoenfeld  
Stephen Schoenfeld, Chairman

[Signature]  
Herman Torostan, Commissioner

[Signature]  
As Henry Herpe, Commissioner

---

12/ Contrast Bruce, supra wherein we concluded that although knowledge of alternative bargaining proposals is significant confidential work, the limited amount of time involved and the availability of another employe who had the skills to cost proposals combined to warrant a finding that the employe was not confidential.