

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
**CHIPPEWA FALLS AREA UNIFIED SCHOOL DISTRICT EMPLOYEES,
LOCAL 1241, AFSCME, AFL-CIO**

Involving Certain Employees of
CHIPPEWA FALLS AREA UNIFIED SCHOOL DISTRICT

Case 141
No. 68971
ME(u/c)-1284

Decision No. 33047

Appearances:

Mark DeLorme, Staff Representative, Wisconsin Council 40, 411 Colfax Street #1, Augusta, Wisconsin 54722, appearing on behalf of Chippewa Falls Area Unified School District Employees, Local 1241, AFSCME, AFL-CIO.

Victoria L. Seltun, Weld, Riley, Prenn & Ricci, S.C., 3624 Oakwood Hills Parkway, P.O. Box 1030, Eau Claire, Wisconsin, appearing on behalf of Chippewa Falls Area Unified School District.

**FINDINGS OF FACT, CONCLUSION OF LAW
AND ORDER CLARIFYING BARGAINING UNIT**

On June 5, 2009, Chippewa Falls Area Unified School District Employees, Local 1241, AFSCME, AFL-CIO filed a petition with the Wisconsin Employment Relations Commission seeking to have the Commission clarify an existing bargaining unit of employees of the Chippewa Falls Area Unified School District by the inclusion of the position of Integrated Finance and HR Support Specialist. Hearing in the matter was held in Chippewa Falls, Wisconsin on December 22, 2009, before Commissioner Susan J.M. Bauman serving as Hearing Examiner. A transcript was prepared and filed with the Commission on January 20, 2010. The parties filed written argument, the last of which was received on February 12, 2010.

No. 33047

The District, contrary to Local 1241, asserts that the incumbent in the disputed position of Integrated Finance and HR Support Specialist is a confidential employee who therefore cannot be included in the bargaining unit.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following

FINDINGS OF FACT

1. Chippewa Falls Area Unified School District Employees, Local 1241, AFSCME, AFL-CIO, hereinafter Union or AFSCME, is the exclusive bargaining representative for all regular full-time, seasonal, limited term employees, and regular part-time employees of three bargaining divisions: food service division, custodian and maintenance division, and classroom paraprofessionals, special education paraprofessionals, clerical, instructional assistants, health assistants, and noon hour monitors division, excluding supervisors, temporary, and confidential employees.

2. Chippewa Falls Area Unified School District, hereinafter District or Employer, is a municipal employer which maintains and operates a school district and has principal offices at 1130 Miles Street, Chippewa Falls, Wisconsin. The District employs approximately 670 employees, including 22 administrators and 10 to 12 additional unrepresented employees, in addition to substitute teachers who are not organized for the purposes of collective bargaining. There are seven confidential employees in the central office, including the disputed position. There are no confidential employees in any other location. There are two bargaining units of District employees - the AFSCME unit at issue in this proceeding and a teacher unit.

3. AFSCME and the District are parties to a collective bargaining agreement covering the period December 1, 2009 through June 30, 2011 that provides for the terms and conditions of employment for members of the bargaining unit.

4. Until July 1, 2008, the District utilized a computer program, GUSTO, to support its payroll system. During that time, the District employed two Account Clerk II employees to process the payroll. These employees were located in the central office and represented by the Union. When advised in 2007 that GUSTO was no longer going to be supported by the consortium that had developed it, the District began looking for alternatives to GUSTO.

5. After extensive review, the District determined to utilize the Skyward system, an integrated software system designed for Wisconsin school districts that allows for quicker data collection, faster data retrieval, and the ability to develop reports to assist in making personnel and financial decisions. Skyward contains a centralized database and, if appropriate modules are purchased, can be utilized for financial and human resource management. The

District purchased the finance and human resources components, each of which consists of several integrated modules.

6. In conjunction with the acquisition and implementation of the new software, then Superintendent Mike Schoch recognized the need for modifying the then-current staffing configuration in the central office. Schoch sought to lay off the two Account Clerk II employees and create two new confidential positions, an HR System and Project Specialist and a Registrar and Skyward Financial Support Specialist. The Board of Education approved the two layoffs but only approved the creation of one new position, the Integrated Finance and HR Support Specialist in dispute in this proceeding.

7. Schoch sought to fill the new Support Specialist with a person who had the technical skills to use the Skyward system to perform payroll, accounts receivable, and accounts payable functions and also generate reports that could be used in bargaining and grievance arbitrations. Schoch saw this position as one that not only has access to personnel information but can use that information to help the District make decisions in human resource and financial functions. Additionally, the new hire was to be cross-trained to perform certain duties of Kathi Lee, Payroll and Benefits Manager, and Deb Braden, District Accountant.

8. Sandi Frion was hired to fill the new Specialist position and began working for the District on January 12, 2009. She reports to Kathi Lee, Payroll and Benefits Manager, and to Deb Braden, Accountant. Frion has an associate's degree and is 13 credits short of a bachelor's degree in business administration. Prior to her hire by the District, Frion was an executive secretary for Phillips Plastic, a position in which her duties included preparing financial information for the plant manager and participating in management meetings. She had no prior experience with Skyward until she began working for the District. She received training on the salary negotiations module and crystal reporting. For all other functions in Skyward, Frion did hands-on training, largely teaching herself how information entered into Skyward had to be accessed in order to ensure that proper information was obtained when running payroll and other reports.

9. The following position description for the Integrated Finance and HR Support Specialist was adopted by the School Board in December 2008 and describes the duties Frion is or will be performing:

ACCOUNTABILITY OBJECTIVES: The Integrated Finance and HR Support Specialist is a data support person for the Central Office whose major responsibility is to develop and implement electronic processes and solutions. Primary objectives of the position include but are not limited to: (1) develop reports from the automated employee/finance system providing Administration with information for decision-making; (2) develop/oversee the production of reports to comply with state and federal mandates, ensuring the accuracy of the data and the efficiency of the process; (3) participate in the yearly staffing plan and later translate that plan into electronic format; (4) extensive knowledge of

employee contracts and staffing strategy especially as to relates to electronic generation of contracts; (5) assist with running bi-weekly Payroll and provide complete backup on the Payroll function; (6) assist in internal audits of District financial procedures; (7) provide segregation of duties within the Finance department; (8) assist in accounting functions as directed and provide complete backup to the District Accountant; (9) monitor position control and ensure that all changes are reflected electronically; (10) provide Skyward support as candidates transition to employees; (11) provide backup in key areas including Board Secretary.

POSITION CHARACTERISTICS:

Recruited by:	Superintendent of Schools
Salary:	Set by Board of Education
Length of contract:	12 months

POSITION RELATIONSHIPS:

Reports to: Payroll and Benefits Manager/District Accountant

Coordinates with: Central office staff, building administrators, payroll department, finance department, teachers, classified and non-classified staff, candidates for employment

Type of Coordination: Information, coordination and assistance in employment process and with employed staff

Supervises: No one

POSITION QUALIFICATIONS:

1. Required training and experience: Post secondary training in office administration skills and 3-5 years successful experience in a responsible office position in data processing supporting either Human Resources/Payroll or Accounting/Finance.
2. Must possess knowledge and operation skills of office technology including database, word processing and Excel.
3. Ability to maintain confidentiality
4. Possess excellent communication and interpersonal skills
5. Ability to carry out oral and written instructions
6. Demonstrated ability to type 65 wpm
7. Special requirements of the position: Ability to manage information systems; ability to perform varied, difficult, and complex tasks at high rate of speed and accuracy; ability to

prepare and maintain clear, detailed and complete reports; knowledge of data processing, word processing and spreadsheet applications; thorough knowledge of Central Office operation and Board policies; ability to exercise judgment and discretion in the application and interpretation of Board policies and regulation; thorough knowledge of an ability to apply modern office technology and procedures; excellent interpersonal and public relations skills; ability to carry out a variety of administrative details; ability to function with independent judgment. Must possess critical thinking skills and the ability to problem solve within complex systems. Experience with report writer type software or the report definition process. Strong customer service/team skills.

8. Desired qualifications of the position: Associate or bachelor's degree and/or comparable experience; skills that reflect excellent record keeping, data, word processing and spreadsheet functions; organizational ability; broad knowledge of administrative functions; personal relations skills; strong customer service skills. Experience in automated personnel or finance system. Experience in the design, development, conversion or maintenance of an automated personnel of finance system.

NOTE: To accomplish the duties listed below, the Integrated Finance and HR Support Specialist will need the highest level of security clearance possible in Skyward – higher than the Superintendent or the Payroll Benefits Manager and equal to that of the Human Resource Director and the Director of Business Services.

A. Development and Implementation of the Human Resource/Payroll Skyward System.

1. Devise and maintain all custom reporting in the Human Resource/Payroll System: Design, develop and run reports out of the Skyward System that provide input for grievance proceedings; information for staffing plans and impact of proposed changes, information/background for matters of litigation, impact of collective bargaining proposals, and input for personnel decisions.
2. Develop/assist with automated production of state and federal reporting requirements for the department.
3. Ensure the accuracy and quality of data maintained by the Human Resource/Payroll Skyward System. Develop procedures to streamline/coordinate set up of employees/data in the system and ensure that data is consistent with code structures.

- B. Responsible for Employee Management/Payroll Interface and Provides Payroll Back Up.
1. Participate in the development of the District's yearly staffing plan. Translate that plan into an electronic Employee management Plan in the Skyward system. Coordinate with the HR Assistants and Payroll/Benefits Manager to ensure staffing strategy is completely and accurately reflected in the new electronic set-up, including assignments, salaries, and calendars, and the Payroll will then be correctly run.
 2. Generate all employee contracts electronically including returning teachers, new teachers, co-curriculars, confidential employees, and administrators. Ensure synchronization between the Employee Management and Payroll modules of Skyward, working with the Payroll and Benefits Manager and HR Assistants to guarantee accurate contracts.
 3. Provide complete back-up to the Payroll and Benefits Manager and be able to accurately run an entire payroll in her absence.
 4. Support the bi-weekly running of Payroll, assisting where directed.
- C. Responsible for Key Accounting Functions.
1. Assist in planning and executing internal audits of District financial procedures.
 2. Provide segregation of duties (an independent review) of various finance functions such as bank reconciliations, receipts, and deposits.
 3. Review, verify and process monthly accounts payable.
 4. Run Accounts Payable checks in the absence of the District Accountant.
 5. Reconcile monthly check register.
 6. Assist with budget entry, forecasting, journal entries, budget monitoring, vendors, disbursements/receivables as required.
 7. Use data mining capability in electronic financial programs to generate needed financial reports.
 8. Learn the entire Accounting system and provide support and backup to the District Accountant, ensuring that financial processes continue in her absence.
- D. Provide Assistance in the Employment of Individuals and Record-Keeping Pertaining to Employment of All Individuals in the District.
1. Position control: monitor changes to employee status – lane/step increases, change of position/salary/hourly rate, additions/changes to contracts etc – and ensure proper adjustments are made with the Human Resource/Payroll Skyward System. This includes the tracking of teacher credits and the correct impact on the pay of individual teachers.

2. Complete new employee set-up in Payroll, coordinating with Employee Management.
 3. Create employee log-ins and communicate ID's and passwords to employees.
 4. Provide training/support on Skyward Employee Access to new employees as needed.
 5. Support the electronic time-keeping system for hourly employees (True Time). Create set-ups for new employees, answer questions, resolve problems, provide training, and give ongoing support.
- E. Provide support as a key member of the Central Office support team,
1. Provide backup for the Board Secretary, including correspondence, creating meeting agendas for open and executive Board meetings, as well as taking minutes for such meetings. This will include the use of "Board Docs," an electronic format for Board meetings including agendas, policies, attachments, and minutes.
 2. Provide HR or Finance support where needed.
 3. Provide backup during the school year to the school lunch program.
- F. Other Duties as Assigned

10. During the last round of negotiations which took place shortly after Ms. Frion was hired, she helped connect data from the employee management module to the salary negotiations module, data that was used by the District to develop its bargaining framework and prepare responses. The District envisions Frion being a key player in developing scenarios in the next round of bargaining, including calculating the cost of proposals and strategizing about possible cost reductions in benefits and through potential layoffs. When Frion provides information and prepares reports to be used in bargaining, or responding to a grievance, there will be on-going dialogue between her and District management employees regarding the impact, scope and accuracy of the information/ report. Frion has met with the District's attorney to strategize about the District's approach to at least one grievance.

11. Frion participates in regular District human resources meetings with Human Resources Director Schultz, Payroll and Benefit Manager Lee, Human Resources/Program Resources Assistant Siddos and Human Resources Assistant McNamara during which grievances are discussed and potential strategies developed to address the matters. Frion is actively involved in these discussions and provides data to the group to further the discussion and, sometimes, guide the outcome.

12. Frion is the only District employee with sufficient working knowledge of the Skyward system to generate the confidential labor relations information and reports the District will utilize during collective bargaining and contract administration.

13. Frion has sufficient access to, knowledge of or participation in confidential labor relations matters to be a confidential employee.

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

CONCLUSION OF LAW

The incumbent in the position of Integrated Finance and HR Support Specialist is a confidential employee within the meaning of Sec. 111.70(1)(i) Stats., and therefore is not a municipal employee within the meaning of Sec. 111.70(1)(i), Stats.

Based on the above and foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

ORDER CLARIFYING BARGAINING UNIT

The position of Integrated Finance and HR Support Specialist shall continue to be excluded from the bargaining unit represented by the Chippewa Falls Area Unified School District Employees, Local 1241, AFSCME, AFL-CIO.

Dated at Madison, Wisconsin, this 4th day of June, 2010.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chair

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

Commissioner Paul Gordon did not participate.

CHIPPEWA FALLS AREA UNIFIED SCHOOL DISTRICT

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

The District, contrary to the Union, asserts that the Integrated Finance and HR Support Specialist cannot be included in the bargaining unit because she is a confidential employee.

It is well-settled that confidential labor relations work:

. . . must: (a) deal with the employer's strategy or position in collective bargaining, contract administration, litigation or other similar matters pertaining to labor relations and grievance handling between the bargaining representative and the employer; and (b) be information which is not available to the bargaining representative or its agents.

MINERAL POINT UNIFIED SCHOOL DISTRICT, DEC. NO. 22284-C (WERC, 9/00), AFF'D SUB NOM. MINERAL POINT UNIFIED SCHOOL DISTRICT V. WERC, 251 WIS.2D 325, 337-38 (2002) (citations omitted).

Much of what Frion does involves the maintenance and manipulation of data that is not confidential labor relations work as defined by MINERAL POINT. However, as reflected in Findings of Fact 9-11, through some of the work that she has performed and additional work that she will perform in the future, we are satisfied that Frion has sufficient participation in and knowledge of the District's strategy in collective bargaining, contract administration, and labor relations litigation to warrant confidential employee status.

The Union argues that the amount of confidential work that Frion will perform is *de minimis* and should not prevent her from being a member of the bargaining unit. The Commission traditionally has been reluctant to deprive employees of the statutory right to bargaining unit membership based upon a *de minimis* amount of confidential work. MINERAL POINT SCHOOL DISTRICT, SUPRA. We have historically rejected attempts by employers to acquire more confidential employees than needed by spreading confidential work among various employees. MARSHFIELD JT. SCHOOL DISTRICT NO. 1, DEC. NO. 14575-A (WERC, 7/76). On the other hand, the Commission is sensitive to the needs of municipal managers to conduct their business "through employees whose interests are aligned with those of management," and, "where a management employee has significant labor relations responsibility, the clerical employee assigned as his or her secretary may be found to be confidential, even if the actual amount of confidential work is not significant, where the confidential work cannot be assigned to another employee without undue disruption of the employer's organization." MINERAL POINT SCHOOL DISTRICT, SUPRA.

Thus, it is the regular performance of confidential labor relations duties, even if small in quantity, that determines unit status. OCONTO FALLS PUBLIC SCHOOLS, DEC. NO. 26815-B (WERC, 5/04); WEST SALEM SCHOOL DISTRICT, DEC. NO. 22514-A (WERC, 8/89). While it is true that Frion and other representatives of the District have significantly overestimated the percentage of time Frion will spend performing the confidential work, we are satisfied that her participation and knowledge of the District's strategic choices will be a regular portion of her workload. In this regard, we particularly note her participation in the regular District human resource meetings. Thus, we reject this Union argument.

The Union correctly notes the prospective nature of some of the Integrated Finance and HR Support Specialist's confidential labor relations duties and urges us not to rely on said duties when making our determination. However, we have held that an employee's bargaining unit status can be based upon an employer's good faith assertions as to what will happen in the future, as long as those assertions are not too speculative to warrant consideration. See, CITY OF TWO RIVERS, DEC. NO. 31519-B (WERC, 11/06); CLARK COUNTY, DEC. NO. 16648-B (WERC, 6/04); CHIPPEWA COUNTY, DEC. NO. 10497-A (WERC, 8/97). We find that the District's assertions are not speculative and are made in good faith. The creation of the Integrated Finance and HR Support Specialist position and the asserted duties of the new position are aspects of what the District envisioned when it purchased the Skyward program. Frion is the only employee of the District who has the ability to utilize this system to develop the reports the District will utilize when developing bargaining, contract administration and labor relations litigation strategies. If the Integrated Finance and HR Support Specialist does not actually perform these prospective duties, the Union can again ask the Commission to review Frion's status.

The Union cites our decision in MOSINEE SCHOOL DISTRICT, DEC. 20479-F (WERC, 5/02) as being strikingly similar to the instant case. In that case, we found an employee who utilized the Skyward system to retrieve wage and benefit information in preparation for collective bargaining not to be a confidential employee. Many of the duties of the Payroll Accounting/Human Resources Specialist position in MOSINEE are similar to those the Integrated Finance and HR Support Specialist Frion performs for the Chippewa Falls School District. Frion, however, will be involved in the development of the District's strategy in bargaining, not simply in "plugging in" numbers to determine the cost of various proposals. She has already identified issues regarding benefit levels as a means to address costs in the District. Further, Frion is more than a "sounding board" for management employees. Frion is involved in determining what data needs to be retrieved and what reports need to be developed using the Skyward system as the District prepares for grievance defenses and collective bargaining.

The Union contends that Frion ought not be excluded as a confidential employee because the District already has an inordinately large number of confidential employees. The record establishes that seven employees are currently designated as confidential by the District. They are all located in the central office, and have varying functions. However, it is the nature of the work that is performed by a disputed employee that determines whether that employee

should be excluded from the unit. Frion's confidential labor relations work persuades us that she is a confidential employee who should continue to be excluded from any bargaining unit. If the Union wishes to challenge the confidential status of other employees, it is free to do so.

The Union also argues that other confidential employees could perform some of duties on which the District relies when asserting Frion's confidential status. The Union may well be correct as to Frion's responsibility to substitute during the absences of other confidential employees. We have consistently held that such "back-up" responsibilities do not provide sufficient exposure to confidential labor relations information to establish confidential status. OCONTO FALLS PUBLIC SCHOOLS, DEC. NO. 26815-B (WERC, 5/04); WEST SALEM SCHOOL DISTRICT, DEC. NO. 22514-A (WERC, 8/89). However, our decision herein is not based on such "back-up" responsibilities but rather on Frion's strategic involvement in District labor relations using knowledge of the Skyward system that no other District employee has.

Given all of the foregoing, we concluded that Frion should continue to be excluded from any bargaining unit because she is a confidential employee within the meaning of Sec. 111.70(1)(i), Stats.

Dated at Madison, Wisconsin, this 4th day of June, 2010.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

Judith Neumann, Chairperson

Susan J. M. Bauman /s/

Susan J. M. Bauman, Commissioner

Commissioner Paul Gordon did not participate.