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WILLIAM C GOEHRING,
 Appellant,

v.

Secretary, DEPARTMENT OF
 HEALTH AND SOCIAL SERVICES,
 Respondent.

Case No. 92-0735-PC

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RULING ON
 MOTION FOR
 PROTECTIVE
 ORDER

This matter is before the Commission on the respondent's motion for a protective order. The appeal arises from the decision not to hire the appellant for the position of State Quality Control Supervisor in the respondent's Division of Economic Support, Bureau of Economic Assistance. Appellant filed a discovery request and respondent supplied the requested materials to the Commission accompanied by this motion. The respondent seeks protection for five groups of documents: 1) the position description for the relevant position, which reflects the High Importance Job Content ratings for filling the position, 2) the written exam with benchmark answers, 3) oral interview questions and benchmark responses, 4) interviewer notes, resumes, reference checks and writing/work samples for each of three candidates, and 5) written recommendation and justification for hiring one of the candidates.

The respondent proposes that. a) these materials be provided to the appellant (or to his attorney or other representative) in the Commission's offices, b) the appellant not be permitted to photocopy them, c) names of the other candidates be redacted, and d) the appellant be limited to using the information from these documents solely in litigating this case, rather than, for example, in other employment applications.

The appellant has not raised any argument as to whether some restrictions on use are appropriate for the referenced documents. As reflected in his December 28, 1992 and January 7 and 13, 1993 letters to the Commission, the appellant only opposes the proposed requirement that he come to Madison to view the documents.

[R]equesting that the materials only be available at the office of the Personnel Commission would seem to cause an undue hardship upon me as the appellant. I reside approximately ninety miles from Madison and my work headquarters is one hundred and fifty miles from Madison. For me to properly prepare my case through review of the documents would require me to take off of work to travel to Madison. If in fact you grant the protective order that the materials only be available in your offices during normal work hours, I would request that the Commission allow me the time away from my job, with pay to travel to Madison and spend sufficient time reviewing the documents. As the cost of travel is also an undue hardship, I would request that the travel be at state reimbursed rate.

Given the fact that the appellant would be significantly inconvenienced if he were required to view the materials in question in the Commission's offices in Madison and given the appellant's agreement with the other aspects of the respondent's motion, the Commission concludes that adequate protections remain if the respondent provides the appellant with his own copies of these documents.

In addition, the Commission notes that only the names of those applicants who were not certified fall within the exception to the public records law found in §230 13(2), Stats (1991-92):

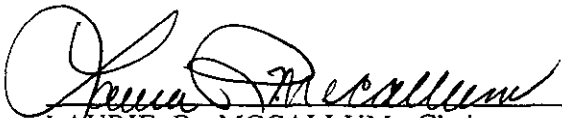
Unless the name of an applicant is certified under §230 25, the secretary and administrator shall keep the identity of an applicant for a position closed to the public

The names found on the materials submitted to the Commission only appear to be those of certified candidates, so no redaction of those names from the documents would be appropriate.

ORDER

The respondent's motion for a protective order is granted in part and denied in part. The respondent is directed to provide the appellant with a copy of those documents submitted to the Commission in response to the appellant's discovery request. Those documents may not be copied and may be used by the appellant or his representative solely for the purpose of preparing for litigation of this case and may not be disclosed by the appellant or his representative for any other purpose, including that of applying for employment. The appellant is directed to inform the Commission of the name and address of any expert or representative he intends to consult prior to divulging any of this material to that person so that the Commission can serve a copy of his order on such person prior to disclosure of the material.

Dated. February 8, 1993 STATE PERSONNEL COMMISSION


LAURIE R. MCCALLUM, Chairperson

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DONALD R. MURPHY, Commissioner


GERALD F. HODDINOTT, Commissioner