

The University of Wisconsin System
UPS OPERATIONAL POLICY: HR 14



SUBJECT: Labor Relations and Collective Bargaining Procedures

Original Issuance Date: July 1, 2015
Last Revision Date: April 2, 2018

1. POLICY PURPOSE:

The purpose of this policy is to facilitate compliance with the State of Wisconsin labor relations laws applicable to UW System employees and to provide procedures for negotiating collective bargaining agreements when UW System university staff members (excluding UW-Madison employees) are represented by a union.

2. POLICY BACKGROUND:

State employees, including UW employees, were granted the right to unionize in 1965 when the Wisconsin legislature enacted the [State Employment Labor Relations Act \(SELRA\)](#). Until July 1, 2015, UW System employees and other state employees were in collective bargaining units that were created by the legislature and consisted of UW and non-UW state employees. Under SELRA, UW System faculty and academic staff have not been granted the right to unionize or engage in collective bargaining.

Effective July 1, 2015, separate collective bargaining units were created under SELRA for UW System employees other than UW-Madison employees, and for UW-Madison employees. These collective bargaining units mirror the former statewide collective bargaining units that prior to July 1, 2015 existed for classified state employees. Also effective July 1, 2015, the Board of Regents is required to bargain with unionized UW System employees (excluding UW-Madison employees).

Under [Wis. Stat. § 111.83](#), unions must annually file recertification petitions. The annual union certification election process is administered by the Wisconsin Employment Relations Commission ([WERC](#)), and certain employer functions (such as providing the WERC with lists of eligible voters) are set forth in [Wis. Admin. Code Chapter ERC 80](#). Under [ERC 80.03](#), the existing representative of bargaining unit employees, or a union interested in representing the employees, must file a petition by September 15 each calendar year, and the WERC must conduct the recertification election by December 1. To prevail in the election, a union must be favored by at least 51% of the bargaining unit employees eligible to vote. If a union prevails, it becomes recertified on the date the Certification of Results of Election is issued. If the union does not prevail, it becomes decertified on the date the Certification of Results of Election is issued or when the collective bargaining agreement expires (whichever is later).

3. POLICY DEFINITIONS:

Please see UPS Operational Policy [GEN 0: General Terms and Definitions](#) for a list of general terms and definitions.

4. POLICY:

A. Labor Relations under SELRA

It is the policy of the University of Wisconsin System to comply with the State Employment Labor Relations Act (SELRA). SELRA is codified as [Subchapter V of Chapter 111](#) of the statutes. Under this law, the Board of Regents, as the employer, is required to bargain with bargaining units of represented UW System employees (excluding UW-Madison employees) and is responsible for certain other employer functions. Under SELRA, if unions representing UW System bargaining units wish to continue to represent the employees, 51% of the bargaining unit employees must vote in favor of collective bargaining representation by the union in annual certification elections, and any bargaining is limited to increases in base wages.

If employees are represented, or if they wish to be represented, each UW System chancellor (or designee) must assess which employees may appropriately participate as members of a collective bargaining unit and which employees should be excluded because they are confidential, supervisory, or managerial employees within the meaning of SELRA (see Appendix 1). Under [Wis. Stat. § 111.825\(3\)](#), the [Wisconsin Employment Relations Commission](#) makes the final determination regarding which employees are eligible to be members of a collective bargaining unit.

B. Collective Bargaining Procedures

With respect to bargaining units comprised of UW System university staff employees (excluding UW-Madison employees), the Board of Regents will represent the state in its responsibility as an employer, and the Board is therefore responsible for all matters related to collective bargaining with these unionized UW System university staff. If the representative of a certified bargaining unit requests to bargain with the Board of Regents, a UW System negotiating team must be established. The negotiating team will, at a minimum, be composed of a chief negotiator from the UW System Office of General Counsel, a representative from UW System Human Resources, a representative from UW-Milwaukee, and a representative from another UW System institution.

Any tentative agreement reached in such negotiations must be submitted to the Board's Business and Finance Committee for approval. Any Committee-approved tentative agreement must be considered for action by the Board of Regents. If the Board of Regents approves the tentative agreement and the labor organization members ratify the tentative agreement, pursuant to [Wis. Stat. § 111.92\(1\)\(a\)2](#), the Board must submit the tentative agreement to the Legislature's Joint Committee on Employment Relations (JCOER). The Board's submission to JCOER will be accomplished by sending the tentative agreement to the staff of the Legislative Council to be forwarded to the JCOER co-chairs. If JCOER does not approve the tentative agreement, it shall be returned to the Board of Regents and the labor organization for renegotiation.

A JCOER-approved tentative agreement, must be submitted to the Wisconsin Legislature for ratification. Under [Wis. Stat. § 111.92\(1\)\(a\)4](#), JCOER is required to accompany the introduction of proposed legislation with a message that informs the Legislature of JCOER's concurrence with the matters under consideration and which recommends passage of the legislation. If the

Legislature does not ratify the tentative agreement, it shall be returned to the Board of Regents and the labor organization for renegotiation.

5. RELATED DOCUMENTS:

Wis. Stat. § [36.115, Personnel systems](#)

Wis. Stat. § [111.83, Representatives and elections](#)

Wis. Stat. § [111.92, Agreements](#)

Wis. Admin. Code [Chapter ERC 80, Annual Certification Elections](#)

[Wisconsin HR Handbook Chapter 324, Confidential, Management or Supervisor Exclusions For Positions in the Classified Service](#)

6. POLICY HISTORY:

Revised: 04/02/2018

Guidelines on the Exclusion of Supervisory, Managerial, and Confidential Employees from Collective Bargaining Units

This appendix provides UW System institutions with guidelines for assessing if a university staff employee should be excluded from a collective bargaining unit as a supervisory, managerial or confidential employee. To be excluded from a collective bargaining unit, at least one of the following definitions must be met.

Supervisor means any individual whose principal work is different from that of the individual subordinates and who has authority in the interest of the employer to hire, transfer, suspend, layoff, recall, promote, discharge, assign, reward or discipline employees, or to adjust their grievances, or to authoritatively recommend such action, if the individual's exercise of such authority is not of a merely routine or clerical nature, but requires the use of independent judgment.

Criteria used to apply the definition of supervisor include:

- a. the authority to effectively recommend the hiring, promotion, transfer, discipline or discharge of employees;
- b. the authority to direct and assign the workforce;
- c. the number of permanent employees supervised;
- d. the amount of time spent supervising;
- e. the number of other persons exercising greater, similar, or lesser degrees of authority over the same employees;
- f. the level of pay, including an evaluation of whether the supervisor is paid primarily for technical professional skill or supervision of employees;
- g. whether the supervisor is primarily supervising an activity (which may not require a supervisory position) or is primarily supervising employees performing the activity;
- h. whether the supervisor is a working supervisor (which may be more indicative of a lead worker) or whether the employee spends a substantial majority of the time supervising employees; and
- i. the amount of independent judgment and discretion exercised in the supervision of employees.

Management includes those personnel engaged predominately in executive and managerial functions, including deans and high-level administrators. The employee may be management if:

- a. the employee is engaged predominately in executive and managerial functions similar to those engaged in by division administrators, bureau directors, or institution heads;
- b. the employee participates in a significant manner in the formulation, determination and implementation of management policy; or
- c. the employee exercises effective authority to commit the employer's resources.

A **confidential** employee is an employee who is privy to confidential matters affecting the employer-employee relationship. Confidential employees have access to, knowledge of, or participate in confidential matters relating to labor relations. Confidential matters

- a. must deal with the employer's strategy or position in collective bargaining, contract (labor agreement) administration, litigation, or similar matters pertaining to labor relations and grievance handling between the bargaining representative and the employer; **and**
- b. must not be information which is available to the employees' bargaining representative (i.e., a position must be privy to management strategy information regarding employment relations).