

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).