

VK/M / Refs / Melan.

BEFORE THE ARBITRATOR

In the Matter of the Arbitration  
of a Dispute Between

WISCONSIN STATE EMPLOYEES UNION  
LOCAL 2748 and ADAM WATKINS, ET.AL

and

STATE OF WISCONSIN, DEPARTMENTS OF  
CORRECTIONS, HEALTH AND FAMILY SERVICES  
AND WORKFORCE DEVELOPMENT

DER Nos. 17715  
17999  
18000  
18247  
18465  
18553  
18573  
18780 and  
18781

Appearances:

Lawton & Cates, S.C., Attorneys at Law, by Mr. Christopher J. Blythe, 10 East Doty Street, Suite 400, Madison, Wisconsin 53701-2965, appearing on behalf of the Union.

Ms. Durell E. Vieau, Labor Relations Specialist-Chief, State of Wisconsin, Office of State Employment Relations, 345 West Washington Avenue, P.O. Box 7855, Madison, Wisconsin 53707-7855, appearing on behalf of the Employer.

ARBITRATION AWARD

Pursuant to the provisions of the collective bargaining agreement between the parties, Wisconsin State Employees Union Local 2748, hereinafter referred to as the Union, and State of Wisconsin, Departments of Corrections, Health and family services, and Workforce Development, hereinafter referred to as the Employer, the undersigned was selected to serve as arbitrator of the above grievances. Hearings were held on February 17, April 10, and May 12, 2003, in Madison, Wisconsin, at which time the parties presented such testimony, exhibits and other evidence as was relevant to the dispute. The parties filed initial briefs and reply briefs by August 1, 2003, at which time the record was closed.

Now, having considered the evidence, the arguments of the parties, the contract language and the record as a whole, the undersigned makes the following Award.

**STIPULATED ISSUES:**

Were the grievants denied professional development benefits in violation of Article XI, Section 13 of the collective bargaining agreement?

**PERTINENT CONTRACT PROVISIONS:**

**ARTICLE IV**

**GRIEVANCE PROCEDURE**

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**SECTION 4: Retroactivity**

4/4/1 Settlement of grievances may or may not be retroactive as the equities of particular cases may demand. In any case, where it is determined that the award should be applied retroactively, except for administrative errors relating to the payment of wages, the maximum period of retroactivity allowed shall be a date not earlier than thirty (30) calendar days prior to the initiation of the written grievance in Step One. Employees who voluntarily terminate their employment (not including those who retire) will have their grievances immediately withdrawn and will not benefit by any later settlement of a group grievance. When a discharged employee resigns for the purpose of withdrawing funds from the State's retirement system, his/her grievance of the discharge will not be considered as withdrawn.

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**ARTICLE XI**

**MISCELLANEOUS**

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**SECTION 13: Professional Development for Social Services Unit**

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**11/13/2 (PSS) Professional Meetings**

An employee shall be granted thirty-two (32) hours without loss of pay each fiscal year at the employee's discretion, regardless of sponsorship, to attend professional meetings, conventions, certification exams, institute seminars, continuing education, or work shops related to the advancement of the employee's

professional development. At the sole discretion of the Employer, travel expenses may also be paid to the employee and additional time off, with or without loss of pay, may be granted for the purposes mentioned above.

**11/13/3 (PSS) Educational Leave-of-Absence.** Employees covered by this Agreement shall be granted a full-time educational leave-of-absence without pay. Full time student status shall be determined by the established requirements of the educational institution. Such leaves shall be granted for career related professional development and educational purposes only. The Employer shall approve or deny the request for a leave of absence within two (2) weeks after the request is received. Any denial shall include written reasons for the denial. Such employee may return early from such a leave upon approval by the Employer.

**11/13/4 (PSS) On-Going Education.** In order to provide for career related professional advancement, the Employer shall provide for a system of ongoing education at the request of the employee on the following basis:

**11/13/5 (PSS)** When enrolled in an educational program in the State Higher Education System, the employee may carry a seventy percent (70%) work load at seventy percent (70%) of pay and benefits. If an employee is enrolled in an educational program in the State Higher Education System and the employee is carrying seventy percent (70%) work load at seventy percent (70%) of pay and benefits, the Employer shall reimburse the employee for seventy-five percent (75%) of tuition and books.

**11/13/6 (PPS)** When enrolled in an educational program in the State Higher Educational System, an employee shall be granted the time, including a reasonable amount of travel time, to take career related educational courses up to but not exceeding fifteen (15) semester hours [not to exceed six (6) semester hours per semester or three (3) semester hours per summer session] for the duration of this Agreement. The Employer may at its discretion allow time off with or without pay for non-career related educational purposes.

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TESTIMONY OF THE WITNESSES:

Thomas P. Corcoran's Testimony

Thomas Corcoran is a Probation and Parole Agent with fifteen (15) years experience. Said position is included in the Professional Social Services bargaining unit. The three major departments that employ Probation and Parole Agents are: Department of Corrections, Department of Workforce Development and the Department of Health and Social Services.

Corcoran is the President of Local 2246 which represents professional social service employees. He has served on the last four negotiating teams. The parties are still in negotiations for a successor to their 2002-2001 collective bargaining agreement which has been extended.

It is Corcoran's understanding that under Article 11, Sections 13/4, 5 and 6 of the agreement, it is the employees who determine the definition of "career related" and whether to get reimbursed under 11/13/5 or time off under 11/13/6. There is no contractual definition of career related as there is for other units (11/12/6). Corcoran testified that courses do not have to be directly related to an employee's present job, but that there be some nexus. He agreed an employee could not, as an example, decide to enroll in medical school. Under the contract, however, an employee in the PPS unit could pursue a master's degree in guidance and counseling.

Employees have been allowed to take courses in adult education, social work, criminal justice, public administration, management, nursing and sign language. Corcoran, himself, was reimbursed for courses in adult education while he was a social worker. He believed the course improved his reading, writing and critical thinking skills.

Corcoran cited the following employees who took career-related courses and were reimbursed under the contract.

Kimberly Hansen, a Probation and Parole Agent who is attending a graduate program in public administration; Sara Duoss, a Probation and Parole Agent who in the fall of 2001 attended a technical school program for sign language and interpretation; Rachelle Weber, a Probation and Parole Agent who attained a master's degree in guidance counseling; Chantell Jewell, a Probation and Parole Agent who in the last two-three years had pursued a bachelor's degree in criminal justice; and Probation and Parole Agents Tracy Mattice, Delores Noack, Gail Kowalkowski and Sara Frazier who attained masters' degrees for attending classes in social work.

Between the February 17 and April 10, 2003, hearing in this matter, Corcoran used the e-mail asking employees who had successfully used the career-related benefits of the contract to contact him. Union Exhibit 26 is the response. About 40-50 responded but he was only able to connect with 20. There are no responses from disability determination specialist or unemployment benefits specialists.

#### Michelle L. Clements' Testimony

Michelle Clements is a Health Services Specialist I in the Division of Supportive Living for the Department of Health and Family services in the Bureau of Quality Assurance.<sup>1</sup> Generally stated, she and a nurse consultant, as a team, perform annual and complaint inspections of nursing homes.

In March 28, 2002, Clements submitted a request for approval to enroll in a microbiology class, (Union Exhibit 3). She indicated that this is a required course for a Bachelor of Science

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<sup>1</sup> She began her employment in January 2001.

degree in nursing which she was pursuing. She testified that this would also be helpful in fulfilling the following "Goals and Worker Activities" listed in her position description: <sup>2</sup>

- A-4 Perform environmental assessments of all areas affecting resident quality of life, including an evaluation of infection control practices.
- A-5 Perform dietary service assessment and resident dietary assessments.
- A-6 Conduct quality of care assessments to determine if residents are receiving care to achieve and maintain their highest practicable physical, mental and psychosocial well-being.

Microbiology is helpful because it is the study of cells, including staph and strep infections and what causes it and how to avoid such infections.

The nursing consultant position requires a nursing degree. It is a higher rated position and receives a higher rate of pay than the Health Services Specialist. Clements believes that both positions are in the Professional Social Services bargaining unit.

Clements request for the microbiology course was denied. She did take the course, nevertheless, on her own time and expense.

#### Rose Silver Johnson's Testimony

Rose Silver Johnson is a Disability Determination Specialist employed by the Department of Health and Family Services in the Disability Determination Bureau. As such, she collects medical evidence for the purpose of deciding whether individuals meet the requirements of Social Security for the purpose of determining disability.

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<sup>2</sup> Union Exhibit 2.

Prior to being promoted to her current position, Johnson held the position of Certified Occupational Therapy Assistant <sup>3</sup> at Central Wisconsin Center. One of the license requirements of said position is to be certified in CPR.

On July 30, 2002, Johnson submitted a request for approval to attend a four-hour course in CPR for recertification. Her request was to use personal development time to attend and for the Employer to pay the \$30.00 registration fee. Her request was approved at the first level, but denied thereafter. CPR is not a requirement for the Disability Determination Specialist position.

#### Jana L. Gosewehr's Testimony

Jana Gosewehr is a Disability Claims Examiner employed by the Department of Health and Family Services in the Disability Determination Bureau. Her primary job duty is to determine medical eligibility for Social Security Disability and Medical Assistance.

On May 1, 2002, Gosewehr submitted a request to reduce her hours to 70% and reimbursement of 75% of tuition for courses towards a master's degree in social work at the University of Wisconsin-Madison. The request was approved at five different levels before being denied by the Division Administrator. The three courses were: The Field of Social Work; Interpersonal Skills Development; and Human Behavior and Social Environment. Johnson believes the courses are career related and would enhance her progression within the Disability Determination Bureau. Further, it would enhance her career advancement and allow her to pursue other positions in State government including Corrections Social Worker.

She testified the courses are work-related because, "I'm dealing with a population of people that are seeking help. The job entails . . . extensive contact with claimants, people that are filing for disability benefits, and interpersonal skills are a large part of the job, understanding

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<sup>3</sup> Said position is in a different bargaining unit.

diversity, multicultural issues are a big part of the job. A large percentage of the claims that we deal with involve mental health issues and alcohol and drug issues, and this course work all is relevant to those issues.” (Tr. pp. 84-85)

According to Gosewehr improving interpersonal skills and understanding human behavior relates to her case work and claimants and assists her to progress through the adjudication classifications.

#### Vicki J. Shanovich's Testimony

Vicki Shanovich has worked for the State for seven and one-half years and is an Unemployment Benefits Specialist 3. She works in the Unemployment Compensation Division of the Department of Workforce Development. Unemployment Benefits Specialist 1 is the entry level and the Benefits Specialist 4 is a lead worker position.

In August 2001, Shanovich requested to attend MATC to enroll in a management development (supervisory management) course towards an accelerated associates degree, (Union Exhibits 14 and 15). Her request was denied because “the training is not considered career related as it does not prepare you for any position in the bargaining unit,” (Union Exhibit 16). She filed a grievance on September 12, 2001, alleging a violation of the contract and requesting 56 hours of sabbatical leave for the time she spent attending classes.

Shanovich made a second request to take courses in the spring for the same program. She was again denied.

Shanovich believes that courses toward an accelerated associates degree in management development is career related because it would prepare her for the Benefits Specialist 4 position

and a supervisor's position. Neither position requires a degree, but recently, both positions have been filled by employees with degrees.

Tracy Mattice's Testimony

Tracy Mattice is employed in the Department of Corrections as a Probation and Parole Agent. She has held that position for over twelve years. From 1996-1999, while employed she obtained a master's degree in social work and was granted payments and benefits per 11/13/3, 11/13/5 and 11/13/6 of the contract. Such a degree is not required for her position.

Kimberly A. Hansen's Testimony

Kimberly Hansen is a Probation and Parole Agent in the Department of Corrections. During her term of employment, she has pursued a master's degree in a public service program at Marquette University. Specifically, she is enrolled in the administration of justice specialization. The courses offered are directly related to the duties of a Probation and Parole Agent. She is pursuing such a degree so that she can advance in the Department of Corrections and obtain a leadership or management role. She was granted the benefits of 11/13/5 of the contract.

Gail R. Kowalkowski's Testimony

Gail Kowalkowski, since 1996, has held the position of Probation and Parole Agent. In May 2000, while employed in the Department of Corrections, she obtained a master's degree in social work from the University of Wisconsin-Milwaukee. She was advised by her supervisor to check out the benefits of the contract for attending school. She did and was given time off with pay.

### Robert G. Pultz's Testimony

Robert Pultz was hired as a Probation and Parole Agent in 1977. While working full time, Pultz attended law school at the University of Wisconsin-Madison beginning in 1991 and graduating in 1995. He made a request for Article 11, Section 13 benefits under the contract but was denied because a degree in law was not career related. He was accommodated however so he could attend law school.

Pultz testified that he believes law courses are related to the job of a Probation and Parole Agent because they participate in revocation hearings and essentially litigate a case in a hearing and present physical evidence, exhibits, do direct and cross examination and present closing arguments.

### Rachelle Weber's Testimony

Rachelle Weber was a Probation and Parole Agent for approximately ten years (1992-2002) prior to her current position of Staff Development Specialist. In her current position, she trains newly hired Probation and Parole Agents.

In about 2000, she received a master's degree in counselor education from the University of Wisconsin-Whitewater, while employed as a Probation and Parole Agent. She filed a number of requests for either time off to attend classes or to get reimbursed for expenses. She was approved for Principles of Counseling, Career Development Through the Life Span, Theories of Counseling and Supervised Practicum.

She feels her degree was helpful in her job as a Parole Agent because it helped in identifying needs of offenders and match them with the resources of the community. She was denied an educational leave to do an internship for two semesters at the Beloit Counseling Center.

#### Maureen Schuck's Testimony

Maureen Schuck has held the position of Probation and Parole Agent since approximately 1997. While employed, she is attending the University of Wisconsin-Whitewater working towards a master's degree in counseling with a school emphasis. She began in 1999 and anticipated receiving her master's degree in May 2003. The last portion of the degree requirement is an internship requiring twenty hours of work a week. She requested time off with pay to serve the internship at a Janesville high school, but was denied on the basis that the education casework was not related to her employment. Schuck adjusted her work schedule so that she could complete her internship and still work forty hours a week. She filed a grievance requesting to be made whole for extra hours worked as a result of her request denial.

Schuck believes the course work she took in pursuit of a degree is related to her work as a Parole Agent because it taught her how to successfully manage a group of offenders and facilitate a group. Also, classes in life span, which is counseling across different age groups, has helped her in counseling youthful offenders in the education process and issues. Further, her job description specifically mentions providing counseling. Those under eighteen years old are required to enroll in an educational program.

Schuck did not apply for contractual benefits for course work, just the internship. She explained most of the classes were in the evening and she was allowed flex time in the summer.

### Julie Basel's Testimony

Julie Basel has worked as a Probation and Parole Agent since about 1991. She supervises approximately 70 offenders in supervision, refers them to treatment, puts them in custody, hold them accountable, and does revocation hearings. While employed as a Parole Agent, she obtained a master's degree from the University of Wisconsin-Platteville in counselor education. She believes her degree is helpful because she applies it daily dealing with the offenders, their families, girlfriends, knowing where to refer them for treatment, trying to identify what issues they need to deal with and which kind of treatment, and what level of treatment is required.

She was allowed time off with pay to attend a course in domestic violence, (Union Exhibit 25a), and hypnosis/self-hypnosis, (Union Exhibit 25b). Also approved was her practicum which involved running a sex offender group at Mendota Mental Health Center. (Six semester credits probably averaged six hours per week.)

Basel filed a grievance requesting reimbursement for tuition and work at 75%, but did not realize that to be entitled to same she had to put in a 70% work week.

### Kristen Aschenbrenner's Testimony (via telephone)

Kristen Aschenbrenner has held the position of Probation and Parole Agent since 1999.

She expected to receive a master's degree in counseling and psychology and educational psychology in December 2003. She began the program in the fall of 2000. Pursuant to Article 11/13/6 she was granted time off with pay to attend classes in the fall of 2000, spring of 2001, summer of 2001, spring of 2002 and fall of 2002. None of her requests were denied.

She did not submit a request for her internship because it was only for a three-credit course and not a six-credit course as required by the contract.

She believes her course work in counseling and psychology is helpful in her job which she uses in dealing with her offenders.

Chantell Jewell's Testimony  
(via telephone)

Since May 1998, Chantell Jewell has held the position of Probation and Parole Agent Senior. Prior to that, from 1996, she was a Youth Counselor at Ethan Allen. She graduated in May 2000 with a bachelor of science degree in criminal justice from the University of Wisconsin-Milwaukee. Between 1996-2000, she used time off with pay to attend school to complete many of the courses required. Among the approved classes were biology, english, psychological sex and racism and africanology class.

Michelle LaCount's Testimony

Michelle LaCount was promoted from Job Specialist – Level 1 (Unemployment Compensation) to Probation and Parole Agent on March 12, 2001. Her duties include dealing with offenders on a one-on-one basis, dealing with them in regard to violations, coming up with a deposition in the event of revocation and is an unofficial liaison to the U.S. Attorney's Office.

LaCount was accepted to law school at Marquette in 2000 but deferred enrolling until 2001. In August 2001, she made a request for time off with pay to attend six of the fourteen credits (legal writing and criminal law) she was enrolled in and, additionally, requested an alternative work pattern to accommodate the other two classes, (Union Exhibit 27b). She was denied same for the following reasons:

"I feel with her still being on probation and learning the job that her performance would suffer while she is attending Law School. That would cause a major distraction that would interfere with her ability to properly handle her caseload. I currently have two other agents that have requested to attend school during the workday, which I have approved. These two agents aren't on probation and previously approached me about their intentions." (Union Exhibit 27c).

On September 13, 2001, LaCount filed a grievance alleging that said denial violated Section 11/13/6. It was denied. The matter was appealed to arbitration. An interim agreement was reached for the first semester that allowed her to work as many hours as she was able to but that she had to work in blocks of four hours.

Another request for time off with pay was submitted for the spring 2002 semester, (Union Exhibit 27g). It was denied and the reason given was that she was still on promotional probation. Requests for time off were also submitted for fall 2002, (Union Exhibit 27h), and spring 2003, (Union Exhibit 27i), but were denied with no reason given. She worked an alternative work pattern and attended classes.

LaCount has found law school courses to be helpful in her job as Parole Agent because in her job she is always dealing with legal issues in one form or another. She utilizes skills in legal writing and what she has learned in criminal law cases, evidence, etc., in revocation hearings and other facets of the job. She outlined the relationship to her duties in Union Exhibit 27k.

#### Adam Watkins' Testimony

Adam Watkins was employed by the State as a Probation and Parole Agent from July 1999 through July 2001. Watkins applied and was accepted into law school at Minnesota and the University of Wisconsin-Madison for the fall 2001 semester. At Madison he could attend full time or part time.

In early 2001, Watkins submitted a request to reduce to 70 hours and reimbursement of 75% for tuition and books. The request was denied on the basis that law school was not career related. He and the Union filed a grievance on February 16, 2001. It was denied and a Step 2 grievance was filed on March 13, 2001. It was denied and the grievance was appealed to arbitration on June 25, 2001.

Watkins planned to attend the University of Wisconsin Law School under the 70%, 75% reimbursement process but when his request was denied he decided to enroll at the University of Minnesota Law School. He satisfactorily completed this first year (2001-2002) and took a leave of absence. Since then he has returned to Wisconsin and has applied for various State jobs with no success. He would like to resume as a Probation and Parole Agent and continue his studies in law.

#### Teresa Mollet's Testimony

Teresa Mollet was hired as a Probation and Parole Agent in August 2000. She, like the others, supervises offenders. At the time of hire, Mollet had an associates degree in correction science.

In spring 2002, she first became aware she could request time off with pay to attend courses toward a degree. On January 24, 2002, she requested time off with pay to attend classes at Marion College in Fond du Lac. She had four classes remaining for her bachelor's degree in Administration of Justice, (Union Exhibit 29a). She was denied and the reason given was that the course Biology – Life Systems does not meet the criteria for a career-related course. The matter was grieved and denied.

Mollet believes her degree in Administration of Justice is related to the position and duties of a Parole Agent as evidenced by the fact that almost all Parole Agents have a similar degree.

Another request was made for the spring of 2003, but denied. The course she attended was Introduction to Physical Science. Said course and Biology – Life Systems are required courses.

#### Kim Ellis' Testimony

Kim Ellis is a Probation and Parole Agent with approximately seven years of service. Since 2000, she has enrolled in classes at the University of Wisconsin-Stout for a master's degree in guidance and counseling. For the fall 2001 and spring 2002 semesters she was given time off with pay to attend classes. She believes her counseling classes help her in her job dealing with offenders.

#### Robert L. Whitaker's Testimony

Robert Whitaker has worked for the Department of Workforce Development for 32 years. For the last four years he has served as the Director of Administrative Services, Unemployment Insurance Division. His duties include providing services to the Division in the areas of contract interpretation, grievances and coordinating discipline.

He testified that the definition of career related used in administering Sections 11/13/4, 5 and 6 is whether the training either is directly related to the job or prepares the person for work within the bargaining unit. When employees are seeking reimbursement, the agency does not approve the entire degree program, but each course is considered for approval. In reviewing

courses for approval, they primarily look to determine if there is a relationship to the duties being performed or duties that could be or if it prepares for work within the bargaining unit.

Whitaker was involved in the decision to deny Vicki Shanovich's request for time off with pay under 11/13/6. It was denied because there was no relationship between the introduction to sociology and introduction to psychology to the work she was doing or for advancement. They are not required, nor is a degree required, to move up to a lead worker or supervisor position. Supervisors are sent to supervisor training. The benchmarks used in hiring for lead worker and supervisor is program experience with administering the agency's programs.

Whitaker opined that the Union's interpretation of 11/13/4, 5 and 6 would create a tremendous budget problem and would affect the quality of service provided.

During his four years as the Director, fewer than five requests have been made under 11/13/4, 5 and 6 and none have been granted.

#### Rita Prigioni's Testimony

Rita Prigioni is the Director of Office Operations in the newly merged Division of Disability and Elder Services (March 2003). Prior to her current position, she was Director of Administrative and Program Support in the Division of Supportive Living and prior to that the Deputy Director of the Bureau of Quality Assurance.

When Ms. Clements filed her grievance herein, Prigioni was the Director in the Division of Supportive Living. Requests for career-related courses were determined by looking at the person's classification and the job duties of the classification and the position description and determine whether the course is appropriate for that particular classification. Clements' request to take a microbiology course was denied because it is not required or has anything to do with her job functions as a Health Service Specialist or for advancement. Her job requires her to

evaluate infection control practices in nursing homes, not the actual infection of the individual. The latter is a job duty of the nurse who is part of the team. Clements' job is to determine if infection practices, i.e., is the home using standard procedures to prevent the spread of disease.

Prigioni has been involved in the process of career-related course requirements and approval since 1994. During her time, there have been about six requests. There was a request by a Health Services Specialist, Lynette Traus, for courses towards a master's degree in psychology that was approved. Also, employee Sandy Borenson was granted approval for an anatomy class because anatomy was identified in her position description. Recently, a Health Services Specialist was granted approval to attend a broad health related class.

Prigioni testified that the Union's interpretation of career related would create financial burden on the agency.

Gretchen Joan Sasse Lindeman's Testimony  
(via telephone)

Lindeman is a Probation and Parole Agent Senior and has been employed by the State since 1997. She began in spring 2000, and is currently working on obtaining a master's degree in Education Counseling.

From August 2000 to spring 2002, she requested and was granted time off to attend classes. Beginning August 2002, she began working 70% and received reimbursement at 75%.

She has found the courses she has taken towards a counseling degree to be helpful in understanding the behavior of the offenders and in supervision.

Among the courses she has taken are Counseling with Children and Adolescents, Life Spans course, Theory class, Assessment class and Personal Growth class. She has also served an internship. No course requests have been denied.

### Stacy Davidsauers' Testimony

Stacy Davidsauers has been employed by the Department of Health and Family Services since 1992, and as an Employment Relations Specialist since 2001.

The standard used to determine career related is to determine if the course requested is career related to the classification of the employee making the request. The Department does not approve an entire degree program, but looks specifically at the courses involved. Not all courses in a degree program are necessarily career related.

Jana Gosewehr's request for approval of a master's program in social work was denied because entire programs are not approved, just courses. Further, her position as a Disability Determination Specialist does not require such a degree. The Department would approve a course in the program if it related to her job; but she was seeking approval for the entire degree program. Such a request has never been approved.

In contrast, Tracy Mattice, a Probation and Parole Agent, was granted approval for some courses in social work because they were career related to the Parole Agent work.

Rose Johnson (previously Silver) was denied time off to attend CPR training for recertification because it is not related to the advancement of her professional development. Further, there is no contractual obligation for the Employer to pay for the cost of the training. CPR is not a requirement of her job as a Disability Determination Specialist.

With respect to the process involved in requesting approval for courses, it is Davidsauers' understanding that requests are routinely approved at the initial steps so that ultimately it reaches the Division Administrator who wants to and does make the final decision.

Dauidsauers did recall that Tom Bates, a Disability Determination Specialist, was granted a full-time leave of absence without pay under 11/13/3 to become a paramedic. Such leaves are granted for career-related professional development and educational purposes only.

#### William J. Groshans' Testimony

Currently, William Groshans is the Assistant Administrator for the Division of Community Corrections. Prior to that, from March 1997 to January 2003, he was the Administrator for the Division.

As Assistant Administrator, he has been granted authority to sign off on all personnel actions up to terminations. He makes the final decision on training requests. He is also involved in the grievance procedure and decides whether they should be settled or not.

Groshans defined career related for a Parole Agent to include courses in social work, criminal justice and psychology that are related to the job. He described a Parole Agent's primary job duties as follows. First, a social history or pre-sentence investigation is done with all parolees. The risks and needs of the individual is assessed and then a set of supervision standards based on the risk and need. There are various levels of supervision. Agents are also involved in getting prisoners treatment or programming in the community based upon their needs and risk and ultimately agents could be involved in the revocation of the offender's probation and parole.

He was involved in denying Parole Agent Terese Mollet's request for approval to attend the course introduction to physical science and life systems. He did not think either was career related or required for the job. It was not needed for advancement. While Mollet's pursuit of a

degree in Administration of Justice would be helpful in her position as Parole Agent, not all courses are career related. Approval is granted on a course-by-course basis and not on an entire degree program.

With respect to Maureen Schuck's grievance, it was denied because an internship as a high school guidance counselor, while helpful, was not career related to Parole Agent work that entails drug and alcohol and cognitive group counseling and not of high school students.

Michelle LaCount and Adam Watkins' requests were denied because a law degree is not required for a Parole Agent position or legal writing or criminal law a requirement. The main objection was that the courses were a request as a part of a degree program. To the best of Groshans' recollection no one in the Department of Corrections had been approved to enter law school under 11/13/4, 5 and 6. He testified that he most likely approved a psychology course for a Parole Agent even though it would not help them advance in their profession or even in the Professional Social Services bargaining unit. There are no attorney positions in the Division, but there are in the Department of Corrections.

Groshans testified that although he approved Chantell Jewel's two requests to attend a biology and an African-American women writers and a geography course, it was by mistake.

#### Kathy Kopps' Testimony

Kathy Kopp is a Labor Relations Manager in the Department of Employment Relations, Bureau of Labor Relations. In her position, she is responsible for ensuring that contractual provisions, including Sections 11/13/4, 5 and 6 are consistently and uniformly applied. Her interpretation of said sections provides that the Employer will provide on-going education to

employees and review requests regarding same. Employees are offered two options, 11/13/5 and 11/13/6 that they can use for career-related courses that have been approved. The Employer determines what is career related.

#### Josh Meier's Testimony

Josh Meier is a Disability Examiner with the Bureau of Disability Determination. He is also a Union Steward for Local 2748.

Meier testified that notwithstanding Ms. Davidsauers' testimony, he is aware of a request that was not approved by a lower level administrator. It involved the request of Carol Kline. It is his understanding that requests can be approved or denied at lower levels.

#### FACTS:

The facts are really not in dispute. There are eight grievants, all of whom are in the Professional Social Services (PSS) collective bargaining unit represented by Local 2748, AFSCME.

Michelle Clements is a Health Services Specialist in the Department of Health and Family Services (DHFS), Bureau of Quality Assurance. She has a Bachelor of Science degree from UW-Madison. Her duties include serving as part of a team which regulates nursing homes. On the team is a Nurse Consultant. Her position description includes: "evaluation of infection control practices." This means she inspects to determine whether the nursing home takes proper precautions in preventing the spread of disease. She does not diagnose or treat patients' infections.

In spring of 2002, Clements submitted a request for time off with pay pursuant to Section 11/13/6 to take a microbiology course during the summer of 2002 as a part of a nursing degree program at Milwaukee Area Technical College (MATC). Her request was denied on the grounds that it was not career related. Clements enrolled and completed the course in fall 2002 during non-working hours.

Rose Johnson (formerly Silver) is a Disability Determinations Specialist in the Department of Health and Family Services, Division of Health Care Financing, Bureau of Disability Determination. Her duties include reviewing and evaluating applications of individuals who have applied for Social Security Disability benefits. She is also licensed as a Certified Occupational Therapy Assistant, a license required for her prior position. The license must be renewed every two years by earning 24 hours of continuing education units each two-year period.

In July 2002, Johnson requested time off with pay and course reimbursement to attend a CPR course for recertification under 11/13/2 of the contract. The request was denied because it was not career related and further 11/13/2 does not obligate the Employer to pay for the cost of courses.

Jana Gosewehr, like Johnson, is employed in DHFS in the Disability Determination Bureau. She is a Disability Claims Examiner. Her duties include determining whether clients are eligible for social security disability benefits and medical assistance.

On May 1, 2002, Gosewehr submitted a request for a reduction in her work load to 70% and reimbursement for 75% of tuition and books for the fall semester while attending the Masters in Social Work program at the University of Wisconsin Graduate School pursuant to 11/13/5 of the agreement. The courses involved were: The Field of Social Work, Interpersonal

Skills, and Human Behavior and Social Environment. The Employer denied the request on the basis that the contract only authorizes career-related courses and not an entire master's degree program. In denying the grievance filed thereafter, the Employer stated that it was willing to consider granting time off with pay for career-related advancement courses under 11/13/6 of the agreement.

Vicki Shanovich is employed as an Unemployment Compensation Benefits Specialist in the Department of Workforce Development, Unemployment Compensation Division. Shanovich is a high school graduate, but has no post secondary degree. She requested time off with pay to attend an Introduction to Psychology course and a Sociology course as part of a Management Development – associate degree program at Madison Area Technical College. The Employer denied the request stating that the general courses in an associate degree program are not reasonably related to her career as an Unemployment Benefits Specialist.

Maureen Schuck is a Probation and Parole Agent with the Department of Corrections (DOC), Division of Community Corrections. Her duties include counseling. Her position description lists counseling techniques and treatment techniques as necessary skills and abilities. Schuck has a bachelor's degree in social work with a minor in criminal justice. In fall 2002, she requested time off with pay to attend a high school education guidance counseling internship at Janesville High School for twenty hours per week pursuant to 11/13/6 of the agreement. The Employer denied the request because it determined that the high school guidance counseling internship is not related to her career as a Probation and Parole Agent and because the Employer does not pay for internships. Schuck completed the internship working it around her work schedule.

Michelle LaCount is a Probation and Parole Agent in the Division of Community Corrections. Her duties include supervising offenders and monitoring their behavior.

In fall 2001, LaCount began attending law school at Marquette University. She requested time off with pay to attend six semester credits in Legal Writing and Criminal Law courses pursuant to 11/13/6 of the agreement. In spring of 2002, she requested time off with pay to attend six semester credits in Advanced Legal Research and Writing, Constitutional Law, Civil Procedure and Property. In fall of 2002, she requested time off with pay to attend six semester credits in Evidence and a Seminar in Sentencing. In spring of 2003, she requested time off with pay to attend three semester credits in European Union Law. All of the requests were denied by the Employer on the basis that they were not related to her career as a Probation and Parole Agent.

Adam Watkins, like Schuck and LaCount, was a Probation and Parole Agent with DOC, Division of Community Services. In early 2001, he requested, for fall 2001, a reduction in work load to 70% and reimbursement for 75% of tuition and books while attending law school at the University of Wisconsin Law School pursuant to 11/13/5 of the agreement. The request was denied as not related to his career as a Probation and Parole Agent. Watkins resigned at the end of the summer of 2001 to attend law school at the University of Minnesota.

Teresa Mollet is also a Probation and Parole Agent with DOC, Division of Community Corrections. On January 24, 2002, she requested time of with pay to attend Biology Life Systems and Introduction to Physical Sciences courses at Marion College as part of her course work in obtaining a bachelor's degree in Administration of Justice. She filed another request in the spring of 2003. Both were denied on the basis that they were not career related to her career as a Probation and Parole Agent.

## POSITIONS OF THE PARTIES:

The Union notes that past arbitration decisions have not precisely defined the contractual language, but do provide guidance as to how the term "career related" should be interpreted. The Union argues that Arbitrator Zeidler<sup>4</sup> in essence held that an employee may take courses or obtain a degree in work that fits the agency. Career related is not limited to the employee's immediate job or to seeking a position one step higher.

The Employer also relies on Arbitrator Zeidler's award claiming that he defined career related as those courses related to the social services professions found in the agency's work. Further, the Employer cites Arbitrator Grenig's award<sup>5</sup> in which he held that career related is something that has a logical or reasonable connection to a profession or occupation.

The parties apply their definition of "career related" to the grievants herein, as follows:

### Clements:

#### Union

Earning a nursing degree would qualify Clements for a Nurse Consultant position within her bureau, a position that represents an advancement in pay over her current position. Also, such a degree would enhance her ability to effectively communicate with nursing personnel in the nursing homes she regulates. The microbiology course she requested is related to Clements' current position and the work performed by the agency and is also a prerequisite for a nursing degree. Under Zeidler's criterion, Clements' request for time off with pay to take the

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In the Matter of Penny Klinker and Local 2748, WSEU vs. State of Wisconsin, Dept. of Health and Social Services, Case No.632 (December 14, 1976)  
Lori Pierquet, Wisconsin State Employees Union, Local 2748, AFSCME Council 24, AFL-CIO vs. State of Wisconsin, Oshkosh Correctional Institution, Case No. 12800. Jay Grenig (February 26, 2000).

microbiology course, as well as all other courses related to her pursuit of a nursing degree should be granted by the Employer as career related.

Employer

The Clements' grievance must be denied because the course microbiology and a nursing degree are outside the discipline of Social Service Consultant. With Arbitrator Zeidler's and Grenig's decisions, the limitations on the language are such that the course work must be within the field of social services. The course microbiology is a general breadth course and a nursing degree is in the medical field. Although Clements is a Health Services Specialist on a team which includes a nurse, a nursing degree would be an entirely different career. Clements is not advancing her current career, as required by the contract language; rather, she is pursuing an entirely different career. As to the course microbiology, the course is not related to Clements' position. In this regard, while Clements evaluates infection control practices, she does not diagnose and treat patients' infections.

Johnson:

Union

The CPR course she requested is related to her current position as well as her licensure as a Certified Occupational Therapy Assistant and, therefore, career related.

Employer

The Employer contends that professional development under 11/13/2 must advance the employee in his/her career. CPR is not required for Johnson's current position as a Disability Determination Specialist. CPR training neither advances Johnson in her career nor to any career

in social services. She is not required to maintain her occupational therapy assistant licensure in her position as Disability Determination Specialist.

Gosewehr:

Union

The three courses she sought permission to take, The Field of Social Work, Interpersonal Skills, and Human Behavior of Social Environment, as well as her pursuit of a master degree in social work are clearly career related. They not only relate to her current position and are related to work performed by the agency, they would also qualify for career advancement in both the agency and in the Professional Social Services bargaining unit. Arbitrator Zeidler's definition includes courses useful in obtaining a degree in a discipline which is found in the agency's work.

Employer

The grievance must be denied because the master's in social work program in its entirety is not related to Gosewehr's career as a Disability Determination Specialist. The Employer approves career-related coursework, not entire programs for degrees. Consistent with Arbitrator Grenig's decision, there must be a reasonable or logical connection requiring a course-by-course review as has been done historically. The Employer acknowledges that some of the courses may be related, but the entire master's program is not related to Gosewehr's position.

Shanovich

Union

Shanovich, as an Unemployment Compensation Benefit Specialist 3, requested permission to attend classes as part of a management development program. This would be helpful in advancing further within the division to either a lead worker or supervisor position.

She was told by her supervisor, Carol Long, that a management degree could be seen as a benchmark in a hiring decision. This clearly fits Arbitrator Zeidler's definition that career related includes moving from a non-degree status to a degree status provided the work fits the agency in which the employee is involved.

#### Employer

Shanovich sought time off with pay for general courses in psychology and sociology to obtain a general management associate's degree. These courses are general in nature and are not related to Shanovich's current career as an Unemployment Benefits Specialist. While these courses may be related to the field of social services, they are general breadth courses which can be used as a foundation to any degree. Here, they are for a management degree which is not specifically related to the discipline of social services. Consistent with the reasoning of Arbitrators Zeidler and Grenig, general breadth courses are excluded.

#### Schuck:

#### Union

Schuck's request to do an internship (practicum) in counseling, which was her final portion of her degree work for a master's degree in counseling is career related because it was a course for a higher degree in a discipline which is related to or found in the agency for which she worked. Therefore, under Zeidler's definition it was career related. Further, four witnesses who are Probation and Parole Agents testified that they were granted time with pay to attend courses, including a practicum, in pursuit of a master's degree in counseling. Clearly, it is argued, the Employer has a past practice of allowing the contract provision to be used by Probation and Parole Agents who pursue degrees in counseling.

### Employer

The grievance must be denied because even though an internship in counseling may be related to the discipline of social services, DOC does not perform high school guidance counseling work and does not employ high school guidance counselors. Consistent with Arbitrator Zeidler's decision that courses must be within the realm of the agency's work, this course must be denied because it is outside the realm of the work performed by the agency. Agents are not expected nor should they perform the role of a high school guidance counselor. Instead, they are to direct offenders to necessary resources, one of which may be a high school guidance counselor.

### LaCount and Watkins:

### Union

Law school education is clearly "career related" to the position of Probation and Parole Agent. LaCount testified that her law school education is very helpful in said position and has substantially enhanced her ability to deal with the legal system. Also, she stated that she hopes to use her law degree with DOC, possibly with the Office of Legal Counsel or as an Administrative Law Judge.

Union witness Robert Pultz testified that he attended law school while employed as a Probation and Parole Agent with DOC. He has advanced in the agency and is now an attorney with the Department. The agency would frequently use him as a resource, specifically because of his legal training.

### Employer

Law school courses are related to the discipline of law, not social services. Regardless if some of the courses are helpful, there are other courses which may be just as helpful, but not career related. Consistent with Arbitrator Lavin's decision to deny a social worker's request to attend law school because a law degree does not have any direct connection to the grievant's present career, the same request by a Probation and Parole Agent should also be denied. Further, even if the Union prevails and the courses are determined to be career related, the grievant is only entitled to time off for 15 semester hours and reasonable travel time per the term of the agreement, not the 21 credit hours and travel time LaCount requested.

Watkins' grievance should be denied for the same reasons discussed above and additionally because he voluntarily resigned from employment with the State. Under 4/4/1 of the contract, employees who voluntarily terminate their employment will have their grievance withdrawn and will not benefit from any later settlement of a group grievance. The intent is that the Employer will benefit from better educated employees. If an employee leaves his/her employment, the Employer receives no benefit.

Mollet:

Union

Mollet was denied her request to reduce her workload to 70% and to receive 75% reimbursement of tuition and books to attend the courses of Biology Life Systems and Introduction to Physical Science to complete her Bachelor of Science degree in Administration of Justice. It is argued she needs a bachelor's degree in order to move up within DOC. Union witness Chantell Jewell, a Probation and Parole Agent, testified she was allowed to take general courses needed for a degree with time off with pay. This is consistent with Arbitrator Zeidler's

decision defining career related to moving from non-degree status to degree status for work that fits the agency.

### Employer

The grievance must be denied because the two courses requested to attend with time off with pay are general breadth courses that could be used towards any degree and are not specifically related to the profession of social services. The fact that the degree is in Administration of Justice makes no difference. Regardless of the degree, the courses must be related to the discipline of social services, the Employer looks at the individual course to determine if it is career related. Neither of the courses herein are related to the grievant's career as a Probation and Parole Agent.

### DISCUSSION

The language in dispute has been in existence since 1975. There have been very few changes in the language since its inception and nothing material to the instant dispute. What is surprising to the Arbitrator is that the parties have utilized the disputed Professional Development provisions ( 11/13/4, 5, and 6 ) numerous times over a period of almost 30 years with apparently very few disagreements over its interpretation and application. While their interpretation and application has not always been consistent, the parties, nevertheless, have made the career related professional advancement program work. This is evidenced by the fact that there have been only five arbitration awards involving said provision.<sup>6</sup>

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<sup>6</sup> Rosalyn Simon, Local 2748, Wisconsin State Employees Union, AFSCME, AFL-CIO vs. State of Wisconsin, Department of Health and Social Services, Case No. 688, Ellen Lavin (12/14/76); Penny Klinker and Local 2748, WSEU Union and Grievant vs. State of Wisconsin Department of Health and Social Services, Case No. 632, Frank Zeidler

Given the parties long history with the career related professional development provisions, the Arbitrator finds the most helpful resource in interpreting the language in dispute to be the prior arbitration awards interpreting said language and the parties' past practice in applying same. Over a period of approximately 30 years, the parties, with the help of the arbitration awards, have to some extent defined "career related" as it applies to the PSS unit. The Arbitrator deems it important to be as consistent as possible with the near 30 year history of the disputed provisions.

Arbitrator's in prior awards have addressed and defined career related as follows:

Case No. 688 (Lavin) 12-14-76

(A Social Worker requested reduction in workload to 70% and reimbursement for tuition and books to obtain degree in Law)

Held: "It is not necessary for her to have a law degree in order to advance within the department."

"A law degree does not have any direct connection with the grievant's present career."

Case No. 632 (Zeidler) 12-16-76

Held: "The term, career related, under various provisions of Section 17 is not limited to the immediate job the employee holds, or to seeking a

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(12/16/76); State of Wisconsin, Department of Health and Social Services and AFSCME Council 24, Wisconsin State Employees Union, Case No. 517, Robert Mueller (May 5, 1977); Michael Sansone, Local 2748, Wisconsin State Employees Union, Council 24, AFSCME 24, AFL-CIO and State of Wisconsin, Department of Health and Family Services, Bureau of Milwaukee Child Welfare, Case No. 15852, Jay Grenig (December 10, 1994); Lori Pierquet, Wisconsin State Employees Union, Local 2748, AFSCME Council 24, AFL-CIO vs. State of Wisconsin, Department of Corrections, Oshkosh Correctional Institution, Case No. 12800, Jay Grenig (February 26, 2000). The Arbitrator assumes that if there were other Arbitration Awards involving the disputed provisions, the parties would have cited same.

position one step higher; but also, in the opinion of the Arbitrator, includes moving from a non-degree status to a degree status provided the work fits the agency in which the employee is involved. Professions or careers not related to the agency in which the employee is involved, ..... are barred by the title of Section 17 in which the development is to be for social service, research, statistics and analysis.”

...

“The Arbitrator . . . believes that courses taken for getting a degree, or a higher degree in discipline which is related to or found in the specific agency for which the employee works, can be considered career related. Thus, if the course this employee was taking is useful to her in obtaining a degree in a discipline, such as psychology, which is found in the agency’s work, then the course should be accepted.”

Case No. 12800 (Grenig) 2-26-00

“The commonly understood meaning of ‘career related’ is something that has a logical or reasonable connection to a profession or occupation.”

...

“...they did not intend to limit ‘career related’ to courses that aid employees in progressing to any class or class series within the bargaining unit within the agency or for lateral movement to a position in a counterpart pay range within the agency”

In reviewing the record and the positions of the parties as stated in their briefs, it is apparent the parties are in agreement on one point and that is that career related is limited to professions and careers found in the agency of the employee involved. The Arbitrator will, therefore, not disturb that aspect of the definition of career related.

However, the parties are in disagreement as to what courses, work or professions within the agency are career related. The Union contends all work that fits the agency is career related. The Employer claims that only courses related to the social services profession found in the agency’s work are career related.

It is abundantly clear from the Zeidler and Grenig awards that career related advancement is not limited to the “immediate job the employee holds or to seeking a position one step higher.” However, they both also recognized that career advancement is not without its limits. Arbitrator Zeidler, in this regard, specifically stated that “professions or careers not related to the agency in which the employee is involved, . . . are barred by the title of Section 17 in which the development is to be for social service, research, statistics and analysis” (emphasis added). The most reasonable interpretation of this, in the opinion of the Undersigned, means that career related is defined to be advancement within the agency of the employee involved in positions within the bargaining unit.<sup>7</sup>

Zeidler, later, again in his decision stated “that courses taken for getting a degree, or a higher degree in a discipline which is related to or found in the specific agency for which the employee works, can be considered career related.” He then gave the following example using the grievant in his case, a Client Services Assistant in the Bureau of Institutions, Corrections Division of the Department of Health and Social Services: “Thus, if the course this employee was taking is useful to her in obtaining a degree in a discipline, such as Psychology, which is to be found in the agency’s work, then the course should be accepted.”<sup>8</sup> It is clear, then, that under Zeidler’s definition the course an employee is taking to obtain a degree does not have to be related to or for advancement in his/her current position to be career related. As long as the course taken is for a degree that qualifies as career related, (as defined above) it is covered.

Since Zeidler’s decision, the title of Article 11, Section 13 (formerly Section 17) has changed from “Social Services, Research, Statistics and Analysis” to “Professional Social Services Unit”. Thus, under Zeidler’s rationale as it applies to this case, career related is limited

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<sup>7</sup> It is noted that Arbitrator Lavin also, similarly, talked in terms of an employee’s advancement within the department.

to professions and careers and courses that fit the agency of the employee involved and the development is to be for positions and classifications in the Professional Social Services unit.<sup>9</sup>

As for specific courses, (as opposed to a degree program) the Undersigned agrees with Arbitrators Grenig and Zeidler that the course must be logically or reasonably connected to an employee's occupation or profession to be career related.

Based on the above, the Arbitrator will now apply the above to the instant grievances.

### Michelle Clements

Clements as a Health Services Specialist 1 in the Division of Supportive Living for DHFS, requested time off with pay and reasonable travel pay, pursuant to 11/13/6, to enroll in a microbiology course which is a required course for her pursuit of a nursing degree. There is, however, no nursing position or a position requiring a nursing degree in the PSS bargaining unit. Therefore, it is not career related. At the hearing, the Union argued that the course would be helpful for her current position. The Arbitrator notes that Clements' March 28, 2002 request (Union Exhibit 3) was not on said basis. However, even if it were, microbiology is not career related because it is not logically or reasonably related to her position. Clements does not diagnose and treat patients' infections; she evaluates infection control practices.

### Rose (Silver) Johnson

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<sup>8</sup> Klinker case, p. 11.

<sup>9</sup> In this regard, the Employer argues that career related is limited to courses related to social services. The Union argues that Zeidler nowhere in his decision ties career related to social services. This, however, is not quite accurate. He did tie career related to courses in social services, but he also tied it to courses in research, statistics, and analysis, i.e., the unit description. Now, that the unit is described as "Professional Social Services", career related is tied to courses and degrees for development in all of the positions in said unit; not just social services positions. Zeidler definition of career related provides employees with upward mobility in other careers and professions in their agency and bargaining unit.

Johnson is a Disability Determination Specialist in DHFS. She collects medical evidence for the purpose of deciding whether individuals meet the requirements of social security for the purpose of determining disability. She sought time off with pay to attend a four-hour course in CPR for recertification.

The course does not qualify as career related under 11/13/2 because (1) the course is not logically or reasonably related to her job, and (2) it is not a course for career advancement to a position within the bargaining unit. CPR is required for the position of Occupational Therapy Assistant; a position Johnson previously held in a different bargaining unit. Said position would be a demotion for Johnson from her current position.

Jana Gosewehr

Gosewehr as a Disability Claims Examiner in DHFS sought benefits under Section 11/13/5 for courses towards a masters degree in social work. The three courses were: The Field of Social Work; Interpersonal Skills Development; and Human Behavior and Social Environment.

Because the Social Worker position is within the agency and in the bargaining unit it is a degree that is career related. Thus, all courses required to attain the degree are career related.

Vicki Shanovich

Shanovich as an Unemployment Benefits Specialist 2 sought approval for courses towards an associate degree in a management development program. She does not currently have a degree. The Benefits Specialist 4 is a lead worker position. Although the Benefits Specialist 4 does not require a degree, it recently was filled by an employee with a degree. Shanovich's supervisor, Carol Long, told her a management degree could be seen as a benchmark in a hiring decision.

Courses to obtain an associate degree in management development is not career related because it is not a degree in a discipline found in the bargaining unit. Further, the courses Shanovich sought approval for were psychology and sociology which are not related to her position, or the Benefits Specialist 4 position.<sup>10</sup> Other courses in the management development program may be career related, but that determination must be made on a case by case basis.

Maureen Schuck

Schuck is a Probation and Parole Agent who is working towards a master's degree in counseling with a school emphasis. The issue is whether a counseling internship at a high school is career related or if a master's degree in counseling is career related.

The Employer has a strong past practice of allowing Probation and Parole Agents 11/13/5 and 11/13/6 benefits to take courses towards a master's degree in counseling. Rachelle Weber received a master's degree in counselor education. She was approved to take the following courses: Principles of Counseling, Career Development Through Life Span; Theories of Counseling and Supervised Practicum.

Julie Basel received a master's degree in counselor education. She was allowed time off work with pay to attend courses in Family Violence, Hypnosis/Self Hypnosis, Ethics and Law, and a six credit practicum in running a sex offender group.

Kristin Ashenbrenner received a master's degree in counseling and psychology and educational psychology. She was given time off to attend courses in fall 2000, spring 2001, spring 2002 and fall 2002. None of her requests were denied.

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<sup>10</sup> The Union argued that the courses and degree would also help Shanovich for a supervisor position. However, regardless of the courses, supervisor positions are not in the bargaining unit and, therefore, not career related.

Lastly, Kim Ellis is enrolled in classes for a master's degree in guidance and counseling. She received time off with pay in fall 2001 and spring 2002. She was allowed time off with pay for a practicum working at an elementary school where, among other things, she counseled parents and students.

The Employer, however, argues that it approves courses and not degrees. But this is contrary to the Zeidler decision as discussed earlier. He found that courses taken to obtain a degree (that qualifies) are career related. He made no distinction in courses taken. As long as the courses were taken in pursuit of a degree, they were deemed career related. The courses do not have to also be related to the employee's current position.

Based on the above, the Arbitrator finds Schuck's request to be career related.

Michelle LaCount and Adam Watkins

LaCount and Watkins, as Probation and Parole Agents, requested Article 11, Section 13 benefits to attend law school and obtain a degree in law.

The position summary of the Probation and Parole Agents, in material part, is as follows: "... this position is responsible for the provision of services to protect the public by holding offenders accountable for their behavior, the preparation of case plans for offenders; fostering law abiding behavior and positive participation of individual offenders in the community; the preparation of accurate and timely investigations, reports, and case records; community outreach activities, liaison activities and other special assignments as required". Generally stated, Probation and Parole Agents supervise and monitor offender's behavior.

Clearly, obtaining a law degree is not career related to the Probation and Parole Agents. It is not a bargaining unit position.

There may be courses in the law degree program, however, that may be career related. The courses, however, must be logically or reasonably connected to the work of a Probation and Parole Agent.

LaCount requested Section 13 benefits for the following courses: Legal Research and Writing, Advance Legal research and Writing, Criminal Law, Torts, Contracts, Constitutional Law, Civil Procedure, Property, Evidence, and Seminars: Sentencing, Business Associations, Ethical Issues In Health Care, and European Union Law.

In comparing the above courses to the duties of the Probation and Parole Agent, the Arbitrator finds the following courses logically or reasonably connected to the Probation and Parole position and, therefore, career related: Legal Research and Writing and Advanced Legal Research and Writing, Criminal Law, and Seminar in Sentencing. Legal Research and Writing because Agents may be called upon to refer to pertinent case law, statutes, administrative rules, etc., and cite same in reports; and Criminal Law and Seminar in Sentencing because both enhance an Agent's knowledge of the criminal justice system.

Watkin's, like LaCount submitted a request to receive 11/13/5 benefits to attend law school. When his request was denied, he left state employment to attend law school at the University of Minnesota. Since a degree in law is not career related, as discussed above, Watkin's grievance is denied.

#### Teresa Mollet

Mollet who is a Probation and Parole Agent requested time off with pay to attend classes towards a bachelor's degree in Administration of Justice. The Arbitrator finds the degree career related to the Probation and Parole Agent position as evidenced by the fact that many parole agents possess this degree. Going from a non-degree to degree enhances Mollets advancement

in the agency. The Employer has recognized the career relatedness of the degree to the parole agent position in the past with its approval of Parole Agent Kimberly Hansen's pursuit of a master's degree in a public service program specializing in administration of justice. She was granted 11/13/5 benefits for two semesters and a summer school for a total of 21 credits.

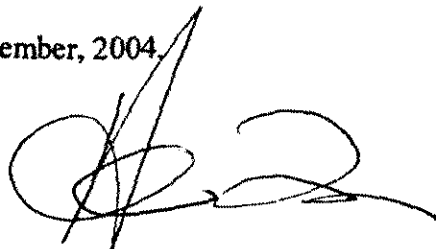
Based on the above facts and discussion thereon, the Arbitrator renders the following

#### AWARD

1. That grievants Michelle Clements, Rose (Silver) Johnson, Vicki Shanovich, and Adam Watkins were not denied professional benefits in violation of Article XI, Section 13 of the collective bargaining agreement.
2. That the Employer by denying grievants Jana Gosewehr, Maureen Schuck, Michelle LaCount and Teresa Mollet time off with pay to take career related courses, violated Article XI, Section 13/11/6 of the collective bargaining agreement, and that, therefore, grievants Schuck, LaCount and Mollet shall be made whole by the Employer either by, (1) crediting said grievants with compensatory time equal to the time taken to attend career related classes for which they should have been granted time off with pay under Section 11/13/6, or (2) reimbursing the grievants an amount of money equal to the time they took off for same. Since grievant Gosewehr did not enroll in the courses she requested time off with pay to attend, but was wrongfully denied, the only appropriate make whole remedy the Arbitrator can award is to require the Employer to grant her request, if renewed.

3. That the Arbitrator retains jurisdiction for a period of forty-five (45) days from the date below to resolve any issue(s) that may arise over the implementation of the remedy awarded.

Dated at Madison, Wisconsin, this 24<sup>th</sup> day of November, 2004.

A handwritten signature in black ink, consisting of a large, stylized 'H' followed by a series of loops and a long horizontal stroke extending to the right.

Herman Torosian, Arbitrator