

STATE OF WISCONSIN
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of
**CLARK COUNTY COURTHOUSE
EMPLOYEES LOCAL 546-B**

Involving Certain Employees of
CLARK COUNTY

Case 19
No. 54115
ME-838

Decision No. 19744-H

Appearances:

Mr. Michael J. Wilson, Representative at Large, Wisconsin Council 40, AFSCME, AFL-CIO, 8033 Excelsior Drive, Suite "B", Madison, Wisconsin 53717-1903, appearing on behalf of Clark County Courthouse Employees Local 546-B.

Weld, Riley, Prenn & Ricci, S.C., Attorneys at Law, by **Ms. Kathryn J. Prenn**, 4330 Golf Terrace, Suite 205, Eau Claire, Wisconsin 54702-1030, appearing on behalf of Clark County.

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

On February 26, 1999, Clark County Courthouse Employees Local 546-B filed a petition with the Wisconsin Employment Relations Commission to clarify an existing bargaining unit of Clark County employees by including the positions of Child Support Specialist I and Child Support Specialist II.

John R. Emery, a member of the Commission's staff, conducted a hearing on July 8, 1999, in Neillsville, Wisconsin. Local 546-B contended that the Child Support Specialist I and II positions are held by non-professional employees who should be included in its non-

No. 19744-H

professional employe unit rather than in the unit of professional employees represented by AFSCME Local 546-D-1. Clark County took no position. Local 546-D-1 intervened at the hearing and did not participate. The transcript was filed on July 20, 1999. The parties did not submit briefs.

The Commission, being fully advised in the premises, and having considered the evidence and the arguments of the parties, hereby makes the following Findings of Fact, Conclusions of Law and Order Clarifying Bargaining Unit.

FINDINGS OF FACT

1. Clark County, herein the County, is a municipal employer with offices at 517 Court Street, Neillsville, Wisconsin. The County has a Child Support Agency.

2. Clark County Courthouse Employees Local 546-B, herein the Union, is a labor organization with its offices located at 7111 Wall Street, Schofield, Wisconsin. The County and the Union are parties to a collective bargaining agreement which contains the following recognition clause:

1.1 The Employer hereby recognizes the Union as the exclusive bargaining agent for the purpose of conferring and negotiating with the Employer or its authorized representatives on questions of wages, hours and conditions of employment for all regular full-time and regular part-time, non-professional employees of Clark County excluding sworn law enforcement, blue collar highway, social service, health care center, professional, managerial, confidential and supervisory employees as well as the elected officials.

3. Clark County Professional Courthouse Employees Local 546-D-1, herein Local 546-D-1, is a labor organization with its offices located at 7111 Wall Street, Schofield, Wisconsin. The County and Local 546-D-1 are parties to a collective bargaining agreement which contains the following recognition clause:

1.1 The Employer hereby recognizes the Union as the exclusive bargaining agent for the purpose of conferring and negotiating with the Employer or its authorized representatives on questions of wages, hours and conditions of employment for all regular full-time and regular part-time, professional employees of Clark County excluding sworn law enforcement, blue collar highway, social service, health care center, professional, managerial, confidential and supervisory employees as well as the elected officials.

4. Prior to January, 1999, there was only one Child Support Specialist classification within the County's Child Support Agency. At that time, the County created the positions of Child Support Specialist I (CSS-I) and Child Support Specialist II (CSS-II). There are currently two employees designated CSS-I, and three employees designated CSS-II.

5. The job description for Child Support Specialist I states in pertinent part:
GENERAL STATEMENT OF DUTIES: This is a specialized technical position which requires independent judgment, initiative and discretion in managing an assigned workload, providing exemplary technical case management support to the Child Support Specialist II. Utilizes clearly defined County, State and Federal policies and procedures in: a) establishment of paternity; b) location of absent parents; c) determination of parents' legal support obligations; d) collection and distribution of child support; e) review of existing orders and subsequent modifications, if appropriate; and f) initiation/enforcement of child, spousal, medical, kinship care and foster care support needs.

TRAINING AND EXPERIENCE: Graduation from high school or equivalent with post high school education in relevant fields with training or experience in a legal setting or a service oriented agency; Prefer experience in the legal field (i.e. paralegal, legal assistant, law enforcement, and other investigative experience); Familiarity with the principles and practices of accounting and other financial records; Prefer experience in the field of child support is desirable. At least two years (technical) college or business school training, or any combination of training and experience which provides the required knowledge, skills and abilities necessary to carry out the duties assigned.

ASSIGNED TASKS AND DUTIES

- * Knowledgeable of up-to-date compilations of State and Federal program policies and procedures.
- * Employing the State's Kids Information Data System (KIDS) and the participants' paper files, document, retrieve, update, inquire, enter all types on mandated data to maintain, process and manage participants' files;
- * Generate and terminate wage assignments as needed, and contact employers to verify obligators' employment and wage status;
- * From the State ESOP function, run and work KIDS reports as required and/or directed in order to maintain clean case management and optimize agency performance;
- * Request ad hoc reports from the Bureau of Child Support as needed;

- * Prepare legal documents (i.e., stipulations, orders, warrants, commitments, contempt findings, etc.) in order to initiate action to be taken;
- * Schedule and coordinate all court dates and appointments with applicants, recipients, Specialist II, agency attorney, private attorneys, Clerk of Court and Circuit Court;
- * Schedule and administer collection of all buccal cell samples used in genetic testing for paternity determination; process all related paperwork required by the analyzing laboratory, and arrange for proper overnight shipment of cell samples;
- * Secure genetic samples and related materials and paperwork in locked storage area and protect the integrity of the chain of custody;
- * Testify in court as needed regarding the handling of any genetic samples, compilation of case data, etc.
- * Arrange for paper service through law enforcement/private agencies;
- * Responsible for monitoring all assigned case related worklists in order to implement necessary action for enforcement and establishment of child support and paternities;
- * In the absence of the Director or Specialist II, serve as delegate to represent the agency at community and other field-related meetings, seminars, etc.;
- * Exercise the ability to use sound judgment and analytical skills in processing administrative orders (i.e. genetic testing, license suspensions, lien dockets) and administrative subpoenas as required in Wisconsin's 1997 Act 191;
- * Provide technical support in the management of a case load including child support, paternity, medical assistance, foster care, food stamps, transitional child care, Kinship Care and Wisconsin Works (W-2);
- * Determine action to be taken and, if so delegated, take said actions (i.e., delinquency notices, income assignments, garnishments, Uniform Interstate Family Support Act (UIFSA), Uniform Reciprocal Enforcement of Support Act (URES), Federal and State Tax Intercept Project, Workers' Compensation claims, court actions through criminal, contempt of civil motions/judgments);
- * Communicate with custodial parents of children of absent parents. Obtain all necessary case information regarding the absent parent in order to locate the absent parent, enabling the Specialist II to establish and enforce child support and to establish paternity;

- * Exercising proficient use of the KIDS-tied word processing system, DocGen, draft case-related correspondence and other documents as needed and/or directed;
- * Conduct thorough investigations in order to locate the absent parent through: law enforcement agencies, post office, relatives, job service, employers, county and state agencies, Federal Parent locate service, cruder services and custodial parents, military, and to determine their income and assets through all available resources;
- * Draft and/or create legal documents for review and signature by the agency and/or private attorney and judge;
- * Assist Specialist II in the courtroom on all assigned cases as needed;
- * Enter all financial and non-financial court orders for support into KIDS;
- * Perform financial adjustments in KIDS as assigned;
- * Assist in working the daily expense report generated by KIDS;
- * Prepare cases for court action which includes but is not limited to drafting of all legal documents, compiling all necessary evidence, reports and/or financial exhibits, and communicating with witnesses and employers;
- * Contact responsible parties, answer questions relating to their financial obligation for child support, prepare payment agreements, prepare detailed case reports and alert Specialist II for action to be taken in case of nonpayment or delayed or deferred payments;
- * Inform applicants of case progress upon request;
- * Attend meetings and training sessions as needed or required;
- * Assist in the research for and preparation of special assignments and reports as required;
- * Provide information to the public as requested or directed;
- * Provide customer service to case participants, colleagues and the general public as needed;
- * Participate in public awareness activities (i.e. public appearances, written summaries, display booths, etc.) as assigned;
- * Provide back-up coverage for front office (i.e., phones, walk-ins, appointments, mail, etc.) in absence of the Case Management Assistant (during periods of break, lunch and vacations);
- * Perform miscellaneous clerical tasks (i.e., copying, faxing, etc.) as required.
- * Perform other department assignments as required;

As stated in the job description, the qualifications necessary to become a CSS-I are, at minimum, a high school diploma and two years at a business or technical school or equivalent job experience. Such experience could include work in law enforcement or a law office as a

secretary or paralegal. Subsequent to hiring, a CSS-I undergoes a nine-day state sponsored training program to become familiar with the accounting functions of the job and regulations that the agency administers.

Of the two current CSS-I employees, one holds a four-year degree and the other holds a two-year associate degree as an administrative assistant with a legal emphasis.

The job description for Child Support Specialist II states in pertinent part:

GENERAL STATEMENT OF DUTIES: This is an advanced, specialized technical position, which requires independent judgment, initiative and discretion in managing an assigned caseload. Utilizes clearly defined County, State and Federal policies and procedures in a) establishment of paternity; b) location of absent parents; c) determination of parents' legal support obligations; d) collection and distribution of child support; e) review of existing orders and subsequent modifications, if appropriate; and f) limitation/enforcement of child, spousal, medical, kinship care and foster care support needs.

TRAINING AND EXPERIENCE: Graduation from high school or equivalent with post high school education in relevant fields with training or experience in a legal setting or a service oriented agency; Prefer experience in the legal field (i.e., paralegal, legal assistant, law enforcement, and other investigative experience); Familiarity with the principles and practices of accounting and other financial records; Previous experience in the field of child support is desirable. At least two years college or business school training, or any combination of training and experience which provides the required knowledge, skills and abilities necessary to carry out the duties assigned.

ASSIGNED TASKS AND DUTIES

- * Knowledgeable of up-to-date compilations of State and Federal program policies and procedures;
- * Summarize background information for use by the courts and attorneys, both this state and others;
- * Employing the State's Kids Information Data System (KIDS) and the participants' paper files, document, retrieve, update, inquire, enter all types on mandated data to maintain, process and manage participants' files;
- * Ability to formulate and analyze financial data for purposes of case presentation or reconciliation;
- * Prepare legal documents to initiate action to be taken;

- * Arrange for paper service through law enforcement/private agencies;
- * Establish paternity of non-marital children and establish child support and medical support orders related thereto;
- * Responsible for monitoring all assigned cases in order to implement necessary action for enforcement and establishment of child support and paternities;
- * Responsible for delegating and monitoring case work assignments to Child Support Specialist I;
- * Provide technical supervision to staff in absence of director;
- * Serve as director's designee to represent the agency at community and other field-related meetings, seminars, etc.
- * Exercise the ability to use sound judgment and analytical skills in initiating administrative orders (i.e., genetic testing, license suspensions, line dockets) and administrative subpoenas as required in Wisconsin's 1997 Act 191;
- * Perform mandated periodic review of assigned cases, using proficient analytical skills for determination of appropriateness of adjustment(s) to existing orders; and, if an adjustment is tenable, notify all case participants and initiate court pleadings;
- * Manage a case load including child support, paternity, medical assistance, foster care, food stamps, transitional childcare, Kinship Care and Wisconsin Works (W-2);
- * Determine action to be taken and take said actions (i.e., delinquency notices, income assignments, garnishments, Uniform Interstate Family Support Act (UIFSA), Uniform Reciprocal Enforcement of Support Act (URESA), Federal and State Tax Intercept Project, Workers' Compensation claims, court actions through criminal, contempt or civil motions/judgments);
- * Interview the custodial parents of children with absent parents. Obtain all necessary case information regarding the absent parent in order to locate the absent parent, establish and enforce child support and to establish paternity;
- * Conduct thorough investigations in order to locate the absent parent through: law enforcement agencies, post office, relatives, job service, employers, county and state agencies, Federal Parent Locate Service, cruder services and custodial parents, military, and to determine their income and assets through all available resources;
- * Using State financial accounts and archived Clerk of Court office financial accounts, analyze, compile and reconcile current, past due, medical, foster care, food stamp, transitional child care, Kinship Care and Wisconsin Works (W-2) accounts;

- * Assist agency attorney in out-of-court negotiations;
- * Draft and/or create legal documents for review and signature by the agency and/or private attorney and judge;
- * Assist agency attorney in the courtroom on all assigned cases;
- * Enter all financial and non-financial court orders for support into KIDS;
- * Perform all financial adjustments in KIDS as needed;
- * Monitor all incoming monies paid on assigned cases, and ensure proper distribution – including the daily working of the suspense report generated by KIDS;
- * Assess the absent parent's ability to pay support, determine the action to be taken and review case files with the Director and agency attorney as necessary;
- * Prepare assigned cases, as necessary, for court action which includes but is not limited to drafting of all legal documents, compiling all necessary evidence and/or financial exhibits, interviewing witnesses, consulting with the agency attorney for proper legal procedure, negotiations with attorneys and determining arrearages;
- * Testify in court when needed;
- * Attend all temporary and final divorce hearings for assigned cases to give a recommendation on child support level and to ensure that stipulations and orders affecting families include necessary provisions;
- * Contact responsible parties, answer questions relating to their financial obligation for child support, prepare payment agreements, prepare detailed case reports and initiate action to be taken in the case of nonpayment or delayed or deferred payments;
- * Inform applicants of case progress upon request;
- * Attend meetings and training sessions as needed or required;
- * Assist in the research for and preparation of special assignments and reports as required;
- * Provide information to the public as requested or directed;
- * Provide customer service to case participants, colleagues and the general public as needed;
- * Participate in public awareness activities (i.e., public appearances, written summaries, display booths, etc.) as assigned;
- * Perform other department assignments as required;

As stated in the job description, the qualifications necessary to become a CSS-II are essentially the same as the qualifications for a CSS-I.

The job descriptions for the CSS I and II positions accurately reflect the duties of the positions, except that since the descriptions were created the Child Support Specialists have also been given responsibility for ordering genetic testing in paternity cases, issuing administrative subpoenas and seizure of assets in non-support cases.

6. The major difference between the two Child Support Specialist classifications is that the CSS-II has caseload responsibility whereas the CSS-I has workload responsibility. A CSS-II is primarily responsible for the background research, document preparation and client contact in paternity, establishment and modification of child support, and non-support cases and also providing courtroom support to the attorneys handling the cases. The employee drafts pleadings and other documents, arranges for service of process, schedules court dates, coordinates genetic testing for paternity, interviews and maintains contact with clients, locates non-custodial parents, and pursues collection in non-support cases. Thus, the CSS-II has more autonomy, is responsible for training and delegating work to the CSS-I and determines when the CSS-I is ready for additional responsibility. The CSS-I does specific tasks as and when assigned by the Director or CSS-II, but does not have independent caseload responsibility.

No CSS-II positions have become open since the dual job descriptions were adopted. Should an opening arise, it is anticipated that a CSS-I would post for the position and, if qualified, be promoted to it. The primary criterion would be completion of the CSS training program and mastery of the job functions.

7. Colleen Johnson has been a Child Support Specialist for 10 years and was designated a CSS-II when the position was created in 1999. She has a high school diploma and previously worked as an Alcohol and Other Drug Abuse Specialist for Clark County Community Services and as an administrative assistant for the Clark County Council on Alcohol and Drug Abuse. Prior to that experience, she worked in the private sector for 22 years as a supervisor for an insurance company.

Barbara Cattnach has been a Child Support Specialist for 12 years and was also designated a CSS-II when the position was created. She has a high school diploma and has been employed by the County for 22 years, working variously as a secretary in the Extension Office, the Sheriff's Department and the District Attorney's Office before coming to the Child Support Agency.

Both Johnson and Cattnach have attended various job-related workshops during their Child Support Agency employment.

8. The duties of a Child Support Specialist I do not require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital.

9. The duties of a Child Support Specialist II do not require knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital.

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

CONCLUSIONS OF LAW

1. The Child Support Specialist I's are not professional employees within the meaning of Sec. 111.70(1)(L), Stats.

2. The Child Support Specialist II's are not professional employees within the meaning of Sec. 111.70(1)(L), Stats.

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

ORDER CLARIFYING BARGAINING UNIT

The Child Support Specialist I and Child Support Specialist II positions shall be included in the bargaining unit represented by Clark County Courthouse Employees Local 546-B.

Given under our hands and seal at the City of Madison, Wisconsin this 6th day of October, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

CLARK COUNTY

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

BACKGROUND

The Clark County Child Support Agency employs five Child Support Specialists under the supervision of the Child Support Director. The Child Support Specialists have historically been included in the professional employee bargaining unit represented by Clark County Professional Courthouse Employees Local 546-D-1, AFSCME, AFL-CIO. In January, 1999, the position of Child Support Specialist was subdivided into the categories of Specialist I and Specialist II.

POSITIONS OF THE PARTIES

The Union

The Union contends that the occupants of the Child Support Specialist I and II positions are not professional employees under Sec. 111.70(1)(L), Stats. and, therefore, do not properly belong in the Local 546-D-1 professional bargaining unit. Rather, the Union contends the positions belong in the non-professional employee unit. The Union relies on the job descriptions for the positions, which it argues accurately reflect the duties, qualifications and requirements of the positions, but do not meet the requirements of Sec. 111.70(1)(L), Stats.

The County

The County takes no position.

DISCUSSION

The criteria for determining whether an employee is a "professional" are set forth in Sec. 111.70(1)(L), which states:

"Professional employee" means:

1. Any employee engaged in work:
 - a. Predominantly intellectual and varied in character as opposed to routine, mental, manual, mechanical or physical work;
 - b. Involving the consistent exercise of discretion and judgment in its performance;

- c. Of such a character that the output produced or the result accomplished cannot be standardized in relation to a given period of time;
 - d. Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital, as distinguished from a general academic education or from an apprenticeship or from training in the performance of routine mental, manual or physical process; or
2. Any employee who:
- a. Has completed the courses of specialized intellectual instruction and study described in subd. 1 d.;
 - b. Is performing related work under the supervision of a professional person to qualify to become a professional employee as defined in subd. 1.

In GREEN LAKE COUNTY, DEC. NO. 24955 (WERC, 11/87), we noted the statute does not require the employee to possess a college degree to be a professional. In WALWORTH COUNTY METROPOLITAN SEWERAGE DISTRICT, DEC. NO. 29527 (WERC, 1/99), we recently addressed the college degree issue as follows:

As we noted in BROWN COUNTY, DEC. NO. 7954-F (WERC, 3/91),

. . . the statute does not require that the incumbent of a position hold a college degree for the position to be found professional. This is true because the statute defines a professional position as one that cannot be performed without knowledge of certain kind, i.e., that which is usually acquired through "a prolonged course of specialized intellectual instruction and study in an institution of higher education or a hospital." In other words, the course of study is a definition of the required knowledge which is the criterion, but is not the criterion itself. It necessarily follows that some professional positions require this kind of knowledge even though the incumbent acquired it through means other than a formal program of instruction or a college degree.

Thus, in OUTAGAMIE COUNTY, DEC. NO. 21143-A (WERC, 10/86) and SUN PRAIRIE, DEC. NO. 20841-B (WERC, 10/86), cited by the County, the Commission found that although the incumbents did not possess a degree, the required knowledge was of the type customarily acquired through social work and engineering degrees, respectively and therefore satisfied the Sec. 111.70(1)(L)1.d. test.

By the same token, it follows that an employer might insist an applicant for a position hold certain specialized educational credentials, but if the performance of the job duties does not require that body of knowledge, the position would not be found to be professional. In other words, an employer cannot cause a position to be professional within the meaning of the Statute by establishing educational standards which do not provide the knowledge necessary to fulfill the tasks associated with the position.

Thus, the professional status of a position does not turn on the incumbent's possession of an advanced degree or a stated requirement of an advanced degree. Instead, the relevant inquiry is whether performance of the tasks associated with the job itself requires a body of knowledge which meets the requirements of Sec. 111.70(1)(L)1.d., Stats.

In this case, the job descriptions indicate an advanced degree is not required and that previous job experience in a relevant field would be an adequate substitute for post-high school education. Neither Johnson nor Cattanaach, two of the three CSS-II's, have pursued schooling beyond high school.

After considering the duties of the positions, as outlined in the job descriptions and through testimony, we are satisfied they do not require knowledge of an advanced type customarily acquired by a prolonged course of specialized intellectual instruction and study in an institution of higher education.

In essence, the positions involve preparation and filing of documents, making financial computations, interviewing clients and non-custodial parents, research and caseload management. These are important positions with substantial responsibilities (which on occasion include performing legal work – presumably under the direction of an attorney). However, the duties of these positions as outlined in the job descriptions and testimony require knowledge of a kind customarily obtained on the job or through vocational education. Such knowledge includes familiarity with specific policies and procedures, clerical, bookkeeping and research skills, and the ability to work directly with the public.

Given the foregoing, we conclude that the incumbents in the CSS-I and CSS-II positions do not meet the criterion set forth in Sec. 111.70(1)(L)1. d., Stats. We determine, therefore, that the positions of Child Support Specialist I and Child Support Specialist II are occupied by non-professional employees and said positions are appropriately included in the non-professionals bargaining unit represented by Clark County Courthouse Employees Local 546-B.

Dated at Madison, Wisconsin this 6th day of October, 1999.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

James R. Meier /s/

James R. Meier, Chairperson

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

Paul A. Hahn /s/

Paul A. Hahn, Commissioner

