

STATE OF WISCONSIN

BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

In the Matter of the Petition of

INTERNATIONAL UNION OF OPERATING  
ENGINEERS, LOCAL 139, AFL-CIO

Involving Certain Employes of

GREEN LAKE COUNTY

Case 39

No. 51711 ME-735

Decision No. 24955-B

Appearances:

Mr. Warren Kaston, Attorney at Law, International Union of Operating Engineers, Local 139, N27 W23233 Roundy Drive, Pewaukee, Wisconsin 53072, for the Petitioner.

Mr. Michael J. Wilson, Representative at Large, Wisconsin Council 40, AFSCME, AFL-CIO, 8033 Excelsior Drive, Suite B, Madison, Wisconsin 53717-1903 for Green Lake County Courthouse Employees, Local 514-C, AFSCME, AFL-CIO.

FINDINGS OF FACT, CONCLUSION OF LAW  
AND ORDER CLARIFYING BARGAINING UNIT

The International Union of Operating Engineers, Local 139, AFL-CIO filed a petition for a unit clarification on October 18, 1994 and filed amended petitions on January 16, 1995, April 20, 1995 and June 26, 1995, requesting that the Commission find the position of Supported Employment Program Coordinator to be professional. The matter was held in abeyance while Petitioner and Wisconsin Council 40, AFSCME, AFL-CIO attempted to settle the matter under the provisions of the AFL-CIO Internal Disputes Plan, and the matter not being settled, hearing was held in Green Lake, Wisconsin on September 28, 1995, before Examiner Debra L. Wojtowski, a member of the Commission's staff. A transcript of the proceedings was received on October 9, 1995 and the parties waived briefs. The Commission being fully advised in the premises, makes and issues the following

FINDINGS OF FACT

1. Green Lake County, herein the County, is a municipal employer and has its offices at Green Lake County Courthouse, 492 Hill Street, Green Lake, Wisconsin 54941. The County did not appear or otherwise participate in this case.

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2. The International Union of Operating Engineers, Local 139, herein the Petitioner, is a labor organization and has its offices at N27 W23233 Roundy Drive, Pewaukee, Wisconsin 53072.

3. Green Lake County Courthouse Employees, Local 514-C, AFSCME, AFL-CIO, herein AFSCME or the Intervenor, is a labor organization and has its offices at 8033 Excelsior Drive, Madison, Wisconsin 53717-1903.

4. The Petitioner is the certified exclusive bargaining representative of County employes in the following unit as described in the 1995-1997 contract between Petitioner and the County:

" . . .all full-time and regular part-time professional employees of Green Lake County, excluding supervisory, managerial, confidential, executive, temporary, craft and casual employees."

5. The Intervenor is the certified exclusive bargaining representative of County employes in a non-professional employe unit.

6. On October 18, 1994, the Petitioner requested the Commission to clarify the bargaining unit described at Finding of Fact 4, to include the position of Supported Employment Program Coordinator and to exclude it from the bargaining unit described at Finding of Fact 5, on the grounds that the position is professional and that a previous Commission decision had found the position's predecessor (Job Coach) to be professional and appropriately within the Petitioner's unit. The Petitioner asserts that the County had placed the position in AFSCME's bargaining unit in error when the position of Supported Employment Program Coordinator was posted in 1990 following a vacancy and reclassification. The Intervenor opposes the exclusion on the grounds that the position is newly created and is not professional.

7. The parties have stipulated that the position of Supported Employment Program Coordinator meets three of the four requirements for a professional position set forth under Sec. 111.70(1)(L)1, Stats., specifically that the employe engages in work: predominantly intellectual and varied in character, as opposed to routine, mental, manual, mechanical or physical work; involving the consistent exercise of discretion and judgment in its performance; and of such a character that the output produced and the result accomplished cannot be standardized in relation to a given period of time. The parties dispute the fourth and final criterion for professional employe status, with the Petitioner stating that the position requires 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 and Intervenor asserting that it does not.

8. In 1987, in Decision No. 24955, we determined that Vanessa Mangert, the occupant of the position of Job Coach, was a professional employe appropriately placed in the professional unit. At that time the job description for the position read as follows:

General Statement of Duties: Develop and maintain competitive and supportive employment sites in businesses and industry for the disabled in Green Lake County.

Distinguishing Features of the Class: Employees in this class work with disabled clients in competitive and supportive employment sites, training them in the skills necessary to complete the assigned tasks of a job. Supervision and training is also given to clients placed in independent living sites, and sheltered workshop activity as time permits.

Examples of Work:

- Work at supported employment sites to do task analysis and position requirements;
- Supervise clients in the set-up, performance and completion of all work tasks;
- Train clients in the skills and work habits required at a particular job site;
- Monitor and be responsible for quantity of work being performed at job site;
- Observe, record and report client work behavior;
- Maintain working relationship with job site employer;
- Participate in staffings as required;
- Assist production staff in doing time studies for prime manufacturing and subcontracts;
- Assist production staff in supervising clients in sheltered work setting as time permits;

- Assists production supervisors in procurement of subcontracts;
- Procure supported employment sites in community for disabled;
- Prepares and teaches job seeking skills class;
- Will be familiar with and adhere to general standards and procedures of DVR, CARF, Wage and Hour and others as relates to job procurement and placement;
- Performs assessments on client referrals for Specialized Vocational Rehabilitation Services;
- Performs other duties as assigned by Coordinator or Program Director.

Required Knowledge, Skills and Abilities: Good knowledge of instruction principles, practices and techniques; ability to develop effective work relationships with clients, other staff, businesses and industries; ability to develop and plan appropriate work training for clients; ability to keep accurate records and make reports; patience; adaptability; initiative; resourcefulness.

Acceptable Experience and Training: Bachelor degree in social work, psychology, vocational rehabilitation or related field, and/or any combination of experience or training which provides the required knowledge and skills necessary to work with disabled persons.

Throughout the period of time Vanessa Mangert held the position, it was the only position in the Supported Employment Program and the incumbent directed that program.

9. In 1988, after Vanessa Mangert left the position as Job Coach, the position of Job Placement Specialist was created in Green Lake County at Fox Industries. The position description stated:

**JOB PLACEMENT SPECIALIST**

General Statement of Duties:

Develop and maintain competitive and supportive employment sites in businesses and industry for the disabled in Green Lake County.

Distinguishing Features of the Class:

Employees in this class work with developmentally disabled clients in competitive and supportive employment sites, training them in the skills necessary to complete the assigned tasks of a job.

Examples of Work:

- Supervises Job Coaches and overall Supportive Employment Program;
- Responsible for the development of community-based job sites;
- Acts as liaisons between employers and the Supported Employment Program;
- Work at supported employment sites to do task analysis and position requirements;
- Supervise clients in the set-up, performance and completion of all work tasks;
- Train clients in the skills and work habits required at a particular job site as needed;
- Monitor and be responsible for quantity and quality of work being performed at job site;
- Observe, record and report client work behavior;
- Maintain working relationship with job site employer;
- Participate in staffings as required;
- Prepares and teaches job seeking skills class;
- Will be familiar with and adhere to the general standards and practices of DVR, CARF, Wage and Hour and others as relates to job procurement and placement;
- Performs assessments on client referrals for Specialized Vocational Rehabilitation Services;
- Performs other duties as assigned by Coordinator or Program Director.

Required Knowledge, Skills and Abilities:

Good knowledge of instruction principles, practices and techniques; ability to develop effective work relationships with clients, other staff, businesses and industries; ability to develop and plan appropriate work training for clients; ability to keep accurate records and make reports; patience; adaptability; initiative; resourcefulness.

Acceptable Experience and Training:

Bachelor degree in social work, psychology, vocational rehabilitation

or related field, and/or any combination of experience or training which provides the required knowledge and skills necessary to work with disabled persons.

10. In approximately the same time period that the position in Finding of Fact 9 above was established, a new half-time position of Job Coach was created and it was filled on November 28, 1988 by Rose Lund. The position of Job Coach in 1988 was responsible for providing on-site training to individuals at their community-based job sites and documenting case notes. In 1989, the position of Job Coach II was created. Rose Lund posted into the Job Coach II position, and a part-time Job Coach I position was thereafter created in January of 1990. Both the Job Coach II and the Job Coach I reported to the Job Placement Specialist. In 1990, the Job Placement Specialist position was eliminated. Shortly thereafter, the position of Supported Employment Program Coordinator was created to head the program.

11. Rose Lund has held the position of Supported Employment Program Coordinator, hereinafter SEP Coordinator, since July 27, 1990. Her work site is Fox River Industries, the rehabilitation facility in Green Lake County, which provides services for the developmentally disabled adult population. Lund has a two-year associate's degree in Community Developmental Disabilities which she received from Madison Area Technical College. The degree program is geared toward preparing individuals to participate in and run programs for individuals who are deinstitutionalized. Her coursework included: "Assessment and Planning" (instruction in performing functional assessments of developmentally disabled individuals and the creation of integration plans for their adjustment to living and/or working in the community), "Vocational Skills Training" (vocational options available in sheltered and supported employment.), "Community Living Skills" (instruction in evaluating and/or simplifying tasks to teach them to others) as well as other coursework in behavior management. The degree also required field study placement and Lund's field placement was at the Waisman Center in Madison, Wisconsin working with severely emotionally and developmentally disabled individuals. These individuals had behavioral challenges that caused them to be expelled from a sheltered setting.

The position description for SEP Coordinator states:

GREEN LAKE COUNTY HUMAN SERVICE DEPARTMENT  
FOX RIVER INDUSTRIES  
SUPPORTED EMPLOYMENT PROGRAM COORDINATOR

TITLE: Supported Employment Program Coordinator  
Approximate number of employees in  
classification or with same title: 1

REPORTS TO: Fox River Industries Unit Manager



PURPOSE OF POSITION: This position requires knowledge of principle, practices, and techniques related to community job placement for the Developmentally Disabled and Chronically Mentally Ill in Supported Employment. He/she will be able to educate the business community, local organizations and government, educators, and the general public to an awareness level of Supported Employment.

FUNDAMENTAL JOB DUTIES AND RESPONSIBILITIES:

A. **ESSENTIAL FUNCTIONS:** About 60% of the time is performing assessments, job development, job placement and initial training to Supported Employment clients. Develop and implement educational material which will be useful to supported employment job site personnel. Also maintaining all related paperwork which is essential to the program. 25% of the time is maintaining oral and written communication of the changes and developments in the Supported Employment Program as it affects Fox River Industries programs and staff, Department of Vocational Rehabilitation, employers, clients, community and Human Services Department. Approximately 10% is monitoring clients and support staff in community job sites. 5% of the time is spent maintaining a working knowledge of standard business practices, employer and employee relationships as it relates to DVR, DILHR, OSHA, wage and hour requirements, etc. Also, create community awareness with business professionals, employers, local organizations and government, educators, and prospective clients about Supported Employment Program. (Share client janitor responsibilities with Production Supervisor.)

Other time is spent developing goals and objectives for the Supported Employment Program through use of a business/program plan. Manages Supported Employment budget and monitors revenues and expenses as it relates to Supported Employment. Develops and implements initial IPP for Supported Employment clients and participates in related staffings. Provides orientation and training of staff and clients participating in the Supported Employment Program.

B. **MARGINAL OR NON-ESSENTIAL FUNCTIONS:**  
Bookkeeping skills.

PHYSICAL DEMANDS OF THE ESSENTIAL FUNCTIONS:

Any of these physical demands can be used in combination with the following areas: 75% of the time requires standing, walking, bending, twisting, reaching, feeling, talking, hearing, far vision, and near vision, also light lifting, carrying, pushing, pulling, handling, and finger dexterity. Approximately 50% is handling medium use of light industrial machinery and using the fingers for things like typing. About 25% of the time is sitting, and carrying things like files and small pieces of equipment weighing approximately 20 lbs. Unusual situations may require crawling, running, swimming, grabbing, and balancing, also climbing using hands and feet. Very heavy lifting, carrying, pushing and pulling of people or equipment.

WORKING CONDITIONS WHILE PERFORMING ESSENTIAL FUNCTIONS:

Approximately 85% of the time is spent working indoors. 15% may involve working outdoors enduring dramatic changes in hot and cold temperatures, and wet or humid conditions. Present in unusual conditions could be extreme hot or cold temperatures, vibrations of vehicles or machinery, hazardous materials in the areas of mechanical, electrical, and chemicals. Atmospheric conditions of fumes, mists, gases, odors, dust, and poor ventilation. Physically confined areas in rare industrial settings.

EQUIPMENT USED TO PERFORM ESSENTIAL FUNCTIONS:

Items include: typewriter, calculator, copy machine, computer terminal, fax machine, automobile, van, measuring devices, light janitorial equipment, hard yard equipment, first aid materials, hearing and eye protection, and miscellaneous hand tools.

QUALIFICATIONS NEEDED: (Educational skills) Minimum requirement of an Associate Degree in the Human Services, Developmental Disabilities, Mental Health or related field, with emphasis on Supported Employment preferred. The ability to obtain first aid and CPR certification in order to provide to clients if needed (training will be provided). Awareness of OSHA standards in industrial settings. A valid driver's license.

This position description has been prepared to assist in defining job responsibilities, physical demands, working conditions, and skills needed. It is not intended as a complete list of job duties, responsibilities and/or essential functions. This description is not intended to limit or modify the right of any supervisor to assign,

direct, and control the work of employees under supervision. The county retains and reserves any or all rights to change, modify, amend, add to or delete, from any section of this document as it deems, in its judgement, to be proper.

The SEP Coordinator job duties primarily involve client assessments, job development, client job placement and follow-up. Assessments are comprehensive evaluations of the interests, abilities, and limitations of developmentally disabled individuals as they may impact any element of job performance. The developmentally disabled clients' emotional, physical and intellectual strengths and weaknesses are evaluated by the SEP Coordinator through meetings with and observations of the client, both at home and on site, meetings with their significant others, meetings with clients' other service providers, such as medical or mental health care providers, social workers or others, and through a collection and evaluation of their background history. The initial assessments take approximately 6 weeks per client. Armed with information about the special needs and interests of the client, the SEP Coordinator then initiates contacts with members of the community who may provide jobs, including manufacturing industries, service industries or others. The SEP Coordinator attempts to ascertain whether any jobs or parts of jobs may be performed by her developmentally disabled clients and to persuade the employer to allow placement. Job development takes an average of 60 to 90 days, although in one instance it took a year and a half to place the client. After placement, the SEP Coordinator monitors the work and identifies any problems and proposes tailored solutions to enable clients to perform successfully. This may include color coding for individuals with reading limitations or photographing job steps to break them into simpler and more easily learned components.

The SEP Coordinator also spends time in the following activities: public relations, including speaking at business meetings, such as Kiwanis clubs, to explain the work needs of clients, generate interest in the program, and develop contacts for future placements; providing oral and written communication of developments in the program, doing billing and monitoring revenues now required for the State Department of Vocational Rehabilitation (DVR), attending quarterly DVR meetings; supervising the Job Coach position; and acting as a contact person for other County units of the developmentally disabled agency, such as the day services unit, which handles the community and living needs of the developmentally disabled client population. In addition, the SEP Coordinator is the liaison for the Community Network Volunteers program, a traditional volunteer program which may use the developmentally disabled as volunteers, especially those who cannot perform well in the more stressful paid employment areas.

The minimum educational requirement in the job posting at the time Lund was hired was given as:

Associate degree in developmental disabilities with 1-2 years previous experience working in a Supported Employment Program, or a combination of experience or training which would provide the

necessary skills to operate a Supported Employment Program.

With the exception of the assessment and placement of individuals in drug and alcohol treatment, the duties of Supported Employment Program Coordinator include the duties of the Job Coach position as it existed in 1987, with additional responsibilities of monitoring and reporting revenues to the DVR, acting as the volunteer liaison and supervising other employees in the program.

12. The work of the Supported Employment Program Coordinator requires 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 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.

Upon the basis of the foregoing Findings of Fact, the Commission makes and issues the following

#### CONCLUSION OF LAW

The occupant of the position of Supported Employment Program Coordinator is a professional employe within the meaning of Sec. 111.70(1)(L) of the Municipal Employment Relations Act.

Upon the basis of the foregoing Findings of Fact and Conclusion of Law, the Commission makes and issues the following

#### ORDER CLARIFYING BARGAINING UNIT 1/

The position of Supported Employment Program Coordinator is excluded from the bargaining unit described in Finding of Fact 5 and clarified into the bargaining unit described in Finding of Fact 4.

Given under our hands and seal at the City of Madison, Wisconsin,  
this 6th day of March, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James R. Meier /s/  
James R. Meier, Chairperson

Herman Torosian /s/

Herman Torosian, Commissioner

A. Henry Hempe /s/

A. Henry Hempe, Commissioner

(Footnote 1/ appears on the next page.)

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1/ Pursuant to Sec. 227.48(2), Stats., the Commission hereby notifies the parties that a petition for rehearing may be filed with the Commission by following the procedures set forth in Sec. 227.49 and that a petition for judicial review naming the Commission as Respondent, may be filed by following the procedures set forth in Sec. 227.53, Stats.

227.49 Petitions for rehearing in contested cases. (1) A petition for rehearing shall not be prerequisite for appeal or review. Any person aggrieved by a final order may, within 20 days after service of the order, file a written petition for rehearing which shall specify in detail the grounds for the relief sought and supporting authorities. An agency may order a rehearing on its own motion within 20 days after service of a final order. This subsection does not apply to s. 17.025(3)(e). No agency is required to conduct more than one rehearing based on a petition for rehearing filed under this subsection in any contested case.

227.53 Parties and proceedings for review. (1) Except as otherwise specifically provided by law, any person aggrieved by a decision specified in s. 227.52 shall be entitled to judicial review thereof as provided in this chapter.

(a) Proceedings for review shall be instituted by serving a petition therefore personally or by certified mail upon the agency or one of its officials, and filing the petition in the office of the clerk of the circuit court for the county where the judicial review proceedings are to be held. Unless a rehearing is requested under s. 227.49, petitions for review under this paragraph shall be served and filed within 30 days after the service of the decision of the agency upon all parties under s. 227.48. If a rehearing is requested under s. 227.49, any party desiring judicial review shall serve and file a petition for review within 30 days after service of the order finally disposing of the application for rehearing, or within 30 days after the final disposition by operation of law of any such application for rehearing.

The 30-day period for serving and filing a petition under this paragraph commences on the day after personal service or mailing of the decision by the agency. If the petitioner is a resident, the proceedings shall be held in the circuit court for the county where the petitioner resides, except that if the petitioner is an agency, the proceedings shall be in the circuit court for the county where the respondent resides and except as provided in ss. 77.59(6)(b), 182.70(6) and 182.71(5)(g). The proceedings shall be in the circuit court for Dane county if

the petitioner is a nonresident. If all parties stipulate and the court to which the parties desire to transfer the proceedings agrees, the proceedings may be held in the county designated by the parties. If 2 or more petitions for review of the same decision are filed in different counties, the circuit judge for the county in which a petition for review of the decision was first filed shall determine the venue for judicial review of the decision, and shall order transfer or consolidation where appropriate.

(Footnote 1/ continues on the next page.)

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(Footnote 1/ continues)

(b) The petition shall state the nature of the petitioner's interest, the facts showing that petitioner is a person aggrieved by the decision, and the grounds specified in s. 227.57 upon which petitioner contends that the decision should be reversed or modified.

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(c) Copies of the petition shall be served, personally or by certified mail, or, when service is timely admitted in writing, by first class mail, not later than 30 days after the institution of the proceeding, upon all parties who appeared before the agency in the proceeding in which the order sought to be reviewed was made.

Note: For purposes of the above-noted statutory time-limits, the date of Commission service of this decision is the date it is placed in the mail (in this case the date appearing immediately above the signatures); the date of filing of a rehearing petition is the date of actual receipt by the Commission; and the service date of a judicial review petition is the date of actual receipt by the Court and placement in the mail to the Commission.

GREEN LAKE COUNTY

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

BACKGROUND

Petitioner initiated this unit clarification because it believes that the SEP Coordinator position had been inappropriately placed in the non-professional bargaining unit represented by AFSCME when the County eliminated the position of Job Placement Specialist in 1990 and created the position of SEP Coordinator. Petitioner maintains that the SEP Coordinator is the successor professional position to a Job Coach position found to be professional in 1987 by the Commission.

Intervenor argues that the position was newly created in 1990 and is not professional.

The County did not participate in this proceeding.

The parties have stipulated that the work of the position meets the first three statutory elements of professional status established by Sec. 111.70(1)(L)1 a. through c., Stats., but disagree as to whether the educational requirement established by 111.70(1)(L)1 d., Stats. is met.

DISCUSSION

We agree with Petitioner that:

"where. . .our agency has previously resolved a dispute as to the merits of a claim, [regarding the status of a disputed position], that previous determination is entitled to considerable weight unless some material change is shown to have occurred in the interim. Were we to operate otherwise, a party dissatisfied with a Commission position status determination issued on one day, could require the agency to conduct a new hearing and make a new decision on the same dispute merely by finding it a new petition." 2/

In Green Lake County, Dec. No. 24955 (WERC, 11/87), we determined that the position of Job Coach in Green Lake County, hereinafter Job Coach 1987, met the requirements of Sec. 111.70(1)(L), Stats. and belonged in the professional bargaining unit. AFSCME disputes Petitioner's contention that the SEP position in dispute in the instant case is essentially the same position we determined to be professional under the "Job Coach" title in 1987. We note that at the

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2/ City of Milwaukee, Dec. No. 6960-J (WERC, 5/89).



time of our determination and throughout its existence, the Job Coach 1987 position headed the Supported Employment Program in Green Lake County and was in fact its sole employee. When this position was eliminated, a new position of Job Placement Specialist was created by the County to head the SEP program. Shortly after, the County created the new position of Job Coach, herein after Job Coach 1988. The duties of the Job Coach 1988 position overlapped somewhat with those of the Job Placement Specialist, but most significantly did not have responsibility for the overall program and did not perform some of the important duties, such as assessments. Rose Lund, the occupant of the Job Coach 1988 position reported to the Job Placement Specialist. As the program grew, a Job Coach II position was created, performing the Job Coach 1988 duties plus assessments. Rose Lund was promoted to the new Job Coach II position. Consistent throughout, the duties of the original Job Coach 1987 position, the subsequent Job Placement Specialist position, and the current SEP Coordinator position included the responsibility for the overall program. The two more recent program heads, the Job Placement Specialist and the SEP Coordinator position, are also responsible for supervising employees in the program with lesser responsibility, now known simply as Job Coaches.

Intervenor believes that the current position of Supported Employment Program Coordinator is not the successor position in that its responsibilities are diminished from the Job Coach 1987 position we previously found to be professional. The record reflects that the SEP Coordinator does not assist certain specialized disabled clientele (such as those in treatment for drug or alcohol abuse) which clientele the Job Coach did assist in 1987. However, this difference is not of such consequence as to change the essential character of the position in this case or significantly impact on the knowledge required for the job's performance. We are therefore persuaded that the position of SEP Coordinator is the successor position to the Job Coach previously determined to be professional by this Commission.

Therefore, our determination in the prior case carries significant weight.

However, even without any consideration of our prior decision, this position does meet the statutory criteria of a professional employe.

Section 111.70(1)(L), Stats. defines a "Professional employe" as:

1. Any employe 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 employe who:

a. Has completed the courses of specialized intellectual instruction and study described in subd. 1. d;

b. In performing related work under the supervision of a professional person to qualify himself to become a professional employe as defined in subd. 1.

Because the parties have stipulated that all the elements save (1)(L) 1. d. are not in dispute, we go immediately to the 1.d. criterion. Petitioner correctly argues that the position need not require a four-year college degree for the position to be held to be professional. As we stated in Brown County, Dec. No. 7954-F (WERC, 3/91),

This is true because the statute defines professional position as one that cannot be performed without knowledge of a 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 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 a 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 Section 111.70(1)(L)1, d, test.

Intervenor correctly points out that even where a college degree is required for a job description, the incumbent employe is not necessarily found to be a professional employe, either. As we also said in Brown County:

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.

The record reflects that the County's job description for the SEP Coordinator requires only a specialized 2 year Associate's degree, while the Job Coach and Placement Specialist job descriptions required a specialized 4 year degree. When we review the work in question, we are satisfied (as we were in 1987) that the 4 year specialized degree continues to be the customary source of the knowledge needed to perform this work. 3/ Thus, we also continue to be satisfied that the work in question requires knowledge customarily acquired in a manner and for a period of time sufficient to satisfy Sec. 111.70(1)(L)1. d., Stats.

Therefore, the position is professional and has been clarified into Petitioner's unit.

Dated at Madison, Wisconsin this 6th day of March, 1996.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

By James R. Meier /s/  
James R. Meier, Chairperson

Herman Torosian /s/

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3/ We also note evidence in the record which suggests that the drop from a 4 year degree requirement to a 2 year degree requirement was designed to accommodate Lund's ability to fill the position.

Herman Torosian, Commissioner

A. Henry Hempe /s/

A. Henry Hempe, Commissioner