

STATE OF WISCONSIN  
BEFORE THE WISCONSIN EMPLOYMENT RELATIONS COMMISSION

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In the Matter of the Petition of  
**AFT-WISCONSIN LOCAL 395, AFT, AFL-CIO**  
Involving Certain Employees of  
**WISCONSIN INDIANHEAD TECHNICAL COLLEGE**

Case 84  
No. 64893  
ME-1144

**Decision No. 31947**

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**Appearances:**

**William Kalin**, Business Representative, AFT-Wisconsin, 6659 E. County Road "B", South Range, Wisconsin 54874, appearing on behalf of AFT-Wisconsin Local 395, AFT, AFL-CIO.

**Victoria L. Seltun**, Weld, Riley, Prenn & Ricci, Attorneys at Law, 3624 Oakwood Hills Parkway, P.O. Box 1030, Eau Claire, Wisconsin 54702-1030, appearing on behalf of Wisconsin Indianhead Technical College.

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

On June 10, 2005, AFT-Wisconsin Local 395, AFT, AFL-CIO filed a petition with the Wisconsin Employment Relations Commission seeking to have the Commission add certain positions/employees to an existing professional employee bargaining unit of Wisconsin Indianhead Technical College employees that Local 395 represents for the purposes of collective bargaining.

As initially filed, Local 395's petition sought inclusion of the Emergency Medical Services Teaching Specialist, Basic Education Teaching Specialist, Fire Service Teaching Specialist, Nursing Assistant Specialist, Career Specialist and Disability Specialist. Prior to hearing, the parties resolved the unit status of all positions except Career Specialist and Disability Specialist.

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Hearing as to the Career Specialist and Disability Specialist positions was held in Shell Lake, Wisconsin on November 29, 2005, before Commissioner Susan J.M. Bauman serving as Hearing Examiner. The College, contrary to the Local 395, asserts that the incumbents in the disputed positions are managerial employees. The parties filed written argument, the last of which was received on March 29, 2006.

On August 8, 2006, Local 395 advised the Commission and the College that it was withdrawing its petition as to any Disability Specialists who work less than 50% of a full-time schedule.

Having reviewed the record and being fully advised in the premises, the Commission makes and issues the following

### **FINDINGS OF FACT**

1. Wisconsin Indianhead Technical College, herein the College, is a municipal employer with principal offices at 505 Pine Ridge Drive, Shell Lake, Wisconsin. The College educates students and operates campuses in Ashland, New Richmond, Rice Lake and Superior for that purpose.

2. AFT-Wisconsin Local 395, AFT, AFL-CIO, herein the Union, is a labor organization with mailing address 6659 East County Road "B", South Range, Wisconsin that serves as the collective bargaining representative of a bargaining unit of College employees described in the most recent Union/ College contract as:

. . . all teachers teaching at least 50% of a full teaching schedule in their area (a full teaching schedule shall consist of the normal student contact hours), Student Counselors, Librarians, Career Education Evaluators, and School Health Nurses employed full-time by the Wisconsin Indianhead Technical College. From this unit the following management positions are excluded: Assistant Directors, Administrators, Subject Discipline Coordinators, Instructional Service Coordinators, Grants and Contracts Coordinators, Public Relations Officer, Law Enforcement Specialist, High School Relations Specialist, Student Services Outreach Specialists, CETA Counselor, Native American Liaison Specialist, Nursing Assistant Specialist, Program, Department and/or Special Services Supervisors, Data Processing Programmer, Tribal Financial Management Training Specialist, Tribal Leadership Training Specialist, Fire Training Specialist, Emergency Medical Services Specialists, Supervisors Management Specialists, Financial Aids Officer, and Program, Department and/or Special Services Assistants. Also excluded from this unit are any employees considered administrative, supervisory, managerial, confidential, custodial and clerical not mentioned above. . . .

3. The College created and filled its four full-time Career Specialists positions in 2005. The fiscal year 2006 salaries paid to the four Career Specialists are \$36,426 for one and \$38,591 for the other three. The following position description, dated April 2005, accurately summarizes the Career Specialist's job responsibilities:

**Job Purpose:**

The Career Specialist assists prospective students in making informed decisions about their career options, encourages post-secondary education and serves as a member of both the WITC recruitment team and the campus enrollment management teams in support of recruitment efforts for all programs. The Career Specialist will develop partnerships with business and industry that promote education and a skilled workforce. This position is responsible for recruitment of students from all market segments and requires travel.

The Career Specialist reports to the campus Dean, Student Services.

**Job Responsibilities:**

➤ Model core abilities that reflect WITC's mission, vision, values and *Learning College* tenets by:

- Assessing own learning and progressing toward established personal and professional goals.
- Demonstrating creativity, critical thinking, and problem-solving skills.
- Communicating effectively in personal and group settings.
- Contributing to a diverse, respectful, and inclusive working and learning environment.
- Effecting change and demonstrating flexibility and positive leadership.
- Acquiring and applying technology to working and learning.

***Learner Success***

- Coordinate and facilitate recruitment services for traditional and non-traditional students.
- Serve as a member of the campus enrollment management team to design and implement strategies.
- Collaborate with other members of the recruitment team to design and develop creative and innovative recruitment goals, strategies, and activities.
- Develop and deliver presentations for targeted audiences.
- Research best practices in recruitment.

### *Operational Effectiveness*

- Research, prepare, and monitor recruitment reports that address emphasis on targeted student population enrollment, program enrollment, and enrollment management goals.
- Assist in the development and maintenance of admissions/recruitment pages on the WITC web site.
- Assist in the concept, content, and design of print and audiovisual materials.
- Represent WITC at college fairs statewide and in adjacent states.

### *Partnerships*

- Serve as liaison to community high schools, agencies, and reservations.
- Represent WITC in the community and at community events.
- Creatively explore the development of new partnership arenas.
- Actively participate in campus, regional, college-wide, and state teams and committees.

4. In WISCONSIN INDIANHEAD TECHNICAL COLLEGE, DEC. NO. 11380-C (WERC, 2/99), the Commission concluded that the incumbent Student Services Specialist was not a managerial employee and placed the Student Services Specialist position in the Union bargaining unit. After the Commission decision, the College and the Union entered into an agreement whereby the incumbents in the Student Services Specialist positions were assigned to the position of counselor subject to the working parameters of the collective bargaining agreement between the parties. The parties further agreed that a newly created position of Student Recruiter “will be exempt from the bargaining unit.”

The position of Career Specialist is the functional equivalent of the Student Recruiter position the parties agreed to exclude from the unit but the basis for the parties’ agreement to “exempt” the Recruiter position from the bargaining unit is not clear.

5. Career Specialists do not sufficiently participate in the formulation, determination and implementation of management policy or have sufficient authority to commit the College’s resources to be managerial employees.

6. The College created and filled two full-time (1950 hours) and two-part-time (884 hours) Disability Specialist positions in 2005. Fiscal year 2006 salaries for the two full-time Disability Specialists is \$41,847 with the part-time employees earning \$18,971 and \$19,484, respectively. The following position description, dated May 2005, accurately summarizes the Disability Specialist’s job responsibilities:

**Job Purpose:**

The Disability Specialist is responsible for managing campus disability services and ensuring equal access for students with disabilities. This position chairs the campus-wide disability advisory committee and serves as a liaison with community agencies and secondary school.

The Disability Specialist reports to the Dean, Student Services.

**Job Responsibilities:**

Model core abilities that reflect WITC's mission, vision, values and Learning College tenets by:

- Assessing own learning and progressing toward established personal and professional goals.
- Demonstrating creativity, critical thinking, and problem-solving skills.
- Communicating effectively in personal and group settings.
- Contributing to a diverse, respectful, and inclusive working and learning environment.
- Effecting change and demonstrating flexibility and positive leadership.
- Acquiring and applying technology to working and learning.

***Learner Success***

Promote equal access to post-secondary education

- Serve as advocate for issues regarding students with disabilities
  - Work with facilities to foster campus awareness regarding physical access.
  - Chair campus-wide disability advisory committee consisting of faculty, students, administrators, and community representatives.
- Disseminate information through institutional printed publications regarding disability services and how to access them
  - Distribute policy and procedure(s) on availability of services via all relevant campus publications (catalogs, programmatic materials, websites, etc.)
  - Ensure referral, documentation, and disability service information is up to date and accessible on the institution's website

- Ensure that criteria and procedures for accessing accommodations are clearly delineated and disseminated to the campus community
  - Provide information on grievance and complaint procedures when requested
  - Provide information and referrals to assist students in accessing campus and community resources
- Provide services that promote access to the campus community
- Facilitate the acquisition and availability of a wide variety of assistive technology to help students access materials in alternative formats.
  - Promote universal design in facilities, in communication, and in instruction
  - Serve as resource for staff accessibility issues

Coordinate and provide services to students with disabilities

- Determine with students appropriate academic accommodations and services
- Review disability documentation and diagnostic testing to determine appropriate accommodations or supports
  - Provide reasonable accommodations for students with disabilities to ensure program accessibility, yet do not compromise the essential elements of the course or curriculum
  - Ensure an array of supports, services and assistive technology so that student needs for modifications and accommodations can be met
  - Provide or arrange for assistance to students to operate assistive technology and adaptive equipment
  - Coordinate eligibility and special needs accommodations for HSED/GED testers
- Hire and supervise interpreters as needed
- Develop and implement service delivery models that encourage students with disabilities to develop independence

Coordinate staff development activities related to special needs

- Inform faculty regarding academic accommodations and compliance with legal responsibilities

- Inform faculty of their rights and responsibilities to ensure equal educational access
  - Inform faculty of the procedure that students with disabilities must follow in arranging for accommodations
- Provide disability awareness training for all campus constituencies

### ***Operational Effectiveness***

#### Maintain records that document student plans for provision of selected accommodations

- Develop a case management system that addresses the careful accurate records of each student
- Create a confidential file on each student including relevant information pertaining to eligibility and provision of services
  - Document the basis for accommodation decisions and recommendations
- Generate client reporting data as required by the state

#### Assist with the development, review, and revision of written policies and guidelines for institutional rights and responsibilities with respect to disability service provision

- Interpret court/government agency rulings and interpretations affecting services for students with disabilities
- Maintain up-to-date knowledge of emerging issues in disability services

#### Assist in managing grants for students with disabilities

- Provide local fiscal management of grants that serve students with disabilities
- Evaluate disability services program on campus locations
- Collect student feedback to measure satisfaction with disability services
  - Review disability grant proposal and provide input to college grant manager

### ***Partnerships***

#### Provide transition services throughout the community

- Serve as liaison with community agencies and secondary schools
- Serve as representative on county transition teams
- Coordinate transition activities for persons with disabilities from college, district high schools, agencies and the community
- Represent college at state-called transition and special needs service meetings (full-time positions). Share information with all campuses.

7. The Disability Specialists do not sufficiently participate in the formulation, determination and implementation of management policy or have sufficient authority to commit the College's resources to be managerial employees.

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

### **CONCLUSIONS OF LAW**

1. Because the basis for the exclusion of the Student Recruiter from the bargaining unit is not clearly established, said agreement does not bar the Union from seeking to include the Career Specialist in the bargaining unit.

2. The incumbents in the position of Career Specialist are not managerial employees within the meaning of Sec. 111.70(1)(i), Stats. and therefore they are municipal employees within the meaning of Sec. 111.70(1)(i), Stats.

3. The incumbents in the position of Disability Specialist are not managerial employees within the meaning of Sec. 111.70(1)(i), Stats. and therefore they are municipal employees within the meaning of Sec. 111.70(1)(i), 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 full-time positions of Career Specialist and Disability Specialist shall be included in the bargaining unit represented by the Union as described in Finding of Fact 2.

Given under our hands and seal at the City of Madison, Wisconsin, this 1st day of December, 2006.

**WISCONSIN EMPLOYMENT RELATIONS COMMISSION**

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Susan J. M. Bauman /s/

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Susan J. M. Bauman, Commissioner

**WISCONSIN INDIANHEAD TECHNICAL COLLEGE**

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

We begin by considering the parties' respective arguments that the outcome of this proceeding should be determined by the similarity of the positions in dispute to other positions as to which the Commission has already ruled (as argued by the Union) or to positions the parties agreed to exclude from the unit (as argued by the College).

The Union argues that the Career Specialist is essentially the same as the Student Services Specialist the Commission found was not a managerial employee in a 1999 decision. The Union thus contends that the instant dispute over the Career Specialist has already been decided.

The Union is correct in its assertion that a prior Commission resolution of the unit status of a position can be determinative. CITY OF MILWAUKEE, DEC. NO. 6960-J (WERC, 5/89); DANE COUNTY, DEC. NO. 26057 (WERC, 6/89); CITY OF MANITOWOC, DEC. NO. 7667-D (WERC, 6/97). However, if there are material changes in circumstances alleged, the party seeking a different result from that previously reached by the Commission is entitled to a hearing and decision. CITY OF MILWAUKEE, *supra.*; DANE COUNTY, *supra.*; CITY OF MANITOWOC, *supra.* Here, although the Union has proven to be correct in asserting that there are substantial similarities between the Student Services Specialist and Career Specialist positions in terms of managerial attributes, it was necessary to conduct hearing in the matter and determine through this decision whether the duties of the Career Specialists warrant managerial status.

The College argues that the Career Specialists are the functional equivalent of the Student Recruiter position that the Union previously agreed was excluded from the unit. Thus, the College contends we should follow suit and exclude the Specialists. However, unless the record clearly establishes that the agreement as to the Student Recruiter was based on some factor other than the alleged managerial status of the Recruiter, said agreement does not bar the Union from pursuing inclusion of the Career Services Specialist. WISCONSIN DELLS SCHOOL DISTRICT, DEC. NO. 24604-C (WERC, 10/92); MATC, DEC. NO. 10882-B (WERC, 11/06). Here, the agreement to exclude the Student Recruiter does not state why the parties agreed to exclude the position and there is no other evidence in the record that provides a clear understanding as to why the agreement was reached. Therefore, the prior exclusion of the Student Recruiter does not bar the Union from pursuing inclusion of the Career Specialist.

We now turn to the issue of whether the Career Specialists and/or Disability Specialists are managerial employees.

In MILWAUKEE V. WERC, 71 Wis. 2d 709, at 716 (1976), the Wisconsin Supreme Court affirmed the Commission's definition of managerial employees as:

. . . those who participate in the formulation, determination and implementation of management policy or possess effective authority to commit the employer's resources.

The Court went on to discuss why the policy component of the Commission's managerial definition was consistent with the Municipal Employment Relations Act. The Court stated at 717 the following:

The exclusion of management personnel, as well as certain other categories, such as supervisors and executives, indicates that not all municipal employees are to have the benefit of dispute resolution through collective bargaining. However, the ability of a certain category of employees to effectuate and implement management policy does not necessarily indicate that they should be precluded from protection by the statute. The definition that has been formulated by WERC effectively distinguishes those categories of employees whose interests are shared by persons engaged in a managerial capacity from those categories who are otherwise employed. By defining the managerial exclusion so as to encompass those who formulate and determine policy, as well as implement it, WERC formulated a definition which is consistent with the purposes of the Act and the legislatively expressed intent to exclude managerial employees.

Thus, it is clear that to be a managerial employee based on one's policy role, the employee must "formulate and determine policy, as well as implement it." Thus, for instance, applying this policy test for managerial status in *EAU CLAIRE COUNTY V. WERC*, 122 Wis. 2d 363 (1984), the Court of Appeals concluded that a register in probate was not a policy-based managerial employee because the circuit court had final approval over all of the position's activities.

Lastly, it is important to emphasize that not all policy determinations qualify an individual as a managerial employee. Consistent with the purpose of the managerial exclusion as one which serves to distinguish individuals whose interests are distinct from those employees in the bargaining unit, policy making must be at a "relatively high level" to warrant managerial status. *TAYLOR COUNTY, DEC. NO. 24261-E (WERC, 7/97)*.

As noted above, the second path to managerial employee status involves the effective authority to commit the employer's resources. In *KEWAUNEE COUNTY V. WERC*, 141 Wis. 2d 347, at 355, (1987), the Court of Appeals affirmed the Commission's determination that "effective authority to commit the employer's resources" at a managerial level means possessing:

. . . the discretionary power to determine the type and level of services to be provided and the manner and means by which those services will be delivered.

and involves:

. . . determining the services required, the number of persons necessary to deliver those services, and the quantity and type of equipment and supplies required to provide those services.

Here, the College argues that the policy and resource roles of the Career Specialists and Disability Specialists warrant a determination that they are managerial employees.

### **Career Specialist**

#### **Management Policy Role**

The Career Specialists are charged with developing and implementing strategies that encourage students to attend the College. It is undisputed that this work is extremely important to the well being and on-going success of the College. If the Career Specialists are unable to recruit students, there will be a significant negative impact, not only on the College as a whole, but on the members of the faculty and support staff bargaining units who may no longer have positions. However, as the above-quoted MILWAUKEE and KEWAUNEE decisions make clear, it is the “determination” of policy at a “relatively high level” which is the distinguishing hallmark of a managerial employee. Here, others in the College hierarchy made the “high level” policy decision to increase the emphasis on recruitment and create these positions. Thus, while the Career Specialists are “implementing” this important College policy, they are not managerial employees because they do not also meet the “formulate and determine” policy component necessary for managerial status.

#### **Resource Authority**

The Career Specialists have an annual travel budget of \$3,000 and a budget for supplies. During the 2005-2006 school year, Career Specialist Roshell was initially given a \$2,000 supply budget, but this amount was reduced without input from Roshell. The Career Specialists can expend monies from their supply budget, up to \$500, without approval from their supervisor. It is anticipated that the Career Specialists will be asked for recommendations on needed budget amounts for the next school year. These recommendations will go to their supervisor who may, or may not, incorporate them in the budget that is forwarded to the campus administrator and central administration.

As to their authority to expend resources, both the total amounts available for travel and supplies and the fact that these expenditures are simply necessary for the Specialists to perform their work indicate that the Career Specialists’ resource authority falls far short of the requisite “discretionary power to determine the type and level of services to be provided and manner and means by which those services will be delivered.”

As to their budgetary role, the record reflects that the nature and effect of any recommendations they may make is not known. Thus, we cannot conclude that their budgetary role will effectively determine “the type and level of services to be provided and the manner and means by which those services will be provided.”

Given all of the foregoing, we think it clear that the policy and resource roles of the Career Specialists are not sufficient to warrant finding them to be managerial employees.

In support of our conclusion, we note that the position of Career Specialist is similar to the position of Director of High School Relations at Gateway Technical College which we also found was not held by a managerial employee. In GATEWAY TECHNICAL COLLEGE, DEC. NO. 30609 (WERC, 4/03), we stated:

While Malloy [Director of High School Relations] plays important roles communicating the services and resources the College has to offer, receiving input as to customer needs and coordinating the recruitment of students, these roles do not significantly involve the formulation and determination of College policy. Others in the College’s organizational structure made the policy choice of placing greater emphasis on the College’s marketing efforts to potential students. That policy choice led to the creation of Malloy’s job. Thus, while Malloy plays an important role in the implementation of this College policy choice, he did not formulate or determine the College’s policy. Therefore, his judgments as to how best to implement College policy in terms of marketing strategies and materials do not make him a managerial employee.

Nor does Malloy have the sufficient authority to commit the College’s resources to be a managerial employee.

His ability to shift relatively small amounts of money within his budget reflects desirable flexibility given him by the College when performing his job functions but falls far short of demonstrating the requisite allocation of resources in a way that significantly affects the College’s operations.

We reject the College’s contention that the Career Specialist is akin to that of the Mental Health Program Specialist found to be managerial in DANE COUNTY, DEC. NO. 15696-B (WERC, 2/03). While we do not question the importance of the position of Career Specialist, we do not find that the impact of the position is comparable to the policy and resource impact of the Mental Health Program Specialist who monitored patient/client census at various County contracted inpatient care providers on a daily basis, troubleshoot service and resource problems, assisted the Community Services Manager in preparing a budget, monitored services provided to protect County levy dollars, monitored the budget plan for three contract-specific programs, represented the County and the Adult Mental Health Division as a member of the Probation and Parole Committee and the Criminal Justice/Mental Health Interface Committee, and who served as chairperson of the System Service Coordination Committee that established priorities for admission to system programs.

Nor, contrary to the County, do we find the Career Specialists to be as involved in both the long-term and day-to-day management of policy or resources as was the Computer Network Administrator found to be a managerial employee in VERNON COUNTY, DEC. NO. 13805-J (WERC, 4/04). The Administrator was involved in weekly Department meetings with the Department Director and all Division supervisors, made effective recommendations as to which technology options fit the Department's needs and effectively recommended all County technology purchases. In addition, she developed County policies for personal computer usage, including e-mail and Internet.

Given all of the foregoing, we conclude that the Career Specialists are appropriately added to the Union bargaining unit. To the extent the College has expressed concerns about matters such as how the current hours of the Career Specialists can be accommodated under the existing collective bargaining agreement, we note that the existing contract does not automatically apply to the Career Specialists, see LOCAL 60, AM. FED. OF MUN. EMPLOYEES v. WERC, 217 Wis. 2D 602 (Ct. App. 1998), and thus that the parties will have the opportunity to address such matters through the collective bargaining process.

### **Disability Specialist**

#### **Management Policy Role**

The Disability Specialists work with and on behalf of students with disabilities to ensure their full access to the programmatic and physical aspects of the campus. While this is clearly important work, the Disability Specialists are not thereby "formulating and determining" policy in the managerial sense but rather are implementing policy (or law) made by others. Thus, when deciding what steps should be followed when a disabled student comes through the door, how to evaluate, identify and provide the needed accommodation, and informing the College community and prospective students as to the rights of and services available to disabled students, the Disability Specialists are not acting as managerial employees.

#### **Resource Authority**

The Disability Specialists have an annual budget of approximately \$12,000 from which to purchase needed accommodations for students at all four College campuses. They can expend up to \$500 without approval. If an accommodation requires more than \$500, this expenditure must be approved by the vice president of budget and finance and submitted to a bidding or quote process. The College must provide accommodations for those in need, regardless of the budgeted amounts. Should the full \$12,000 be expended, the Disability Specialists would request additional funds for the needed accommodation, but they cannot expend sums in excess of the budgeted monies without the approval of Dean Crandall (supervisor of the two full-time Specialists) who, in turn, will get permission from her superiors to expend the money, most likely by moving funds from one line item to another, an action that the Disability Specialists cannot undertake.

Dean Crandall will seek input from the Disability Specialists in developing the budget for the subsequent academic year. She will seek suggestions from them as to those items they believe are required, and she will include them in the strategic plan and her budget request that goes to central administration.

Even assuming *arguendo* that the Specialists' currently speculative suggestions ultimately become part of the College's budget, we conclude that the Disability Specialists' role in resource allocation is not sufficient to warrant managerial status. Whether spending allocated funds or participating in the budget process, the Specialists are not exercising the requisite " . . . discretionary power to determine the type and level of services to be provided and the manner and means by which those services will be delivered." This is so because "the type and level of services" are mandated by law and, as reflected above regarding the expenditure realities if the current \$12,000 budget is exhausted, the College is required to expend the resources necessary to meet its legal obligations to students with disabilities.

In reaching our conclusion, we reject the College's contention that the Specialists are similar to the Developmental Disabilities Coordinator and Community Options Program Social Worker found to be managerial employees in VERNON COUNTY, DEC. NO. 13805-B (WERC, 4/91). Unlike those employees, the Disability Specialists do not, among other things, prepare an annual plan and budget; do not write and submit grants and applications with any regularity; do not administer contracts with non-Employer agencies providing services to clients; and do not have authority to transfer funds from one line to another within the budget, with or without consultation with the supervisor. The litany of duties performed by the individuals in VERNON COUNTY much more significantly affected the direction of the employer's operations.

The Director of Grants/Coordinator of Occupational Education Projects that we found to be a managerial employee in NICOLET COLLEGE, DEC. NO. 23366 (WERC, 3/86) also had significantly more fiscal autonomy than do the Specialists. That position developed, coordinated and fiscally administered all state and federal vocational and grant funds received by the College and administered the daily and fiscal functions of the College's Apprenticeship Program and Fire Training Program. Further, in CESA #11, DEC. NO. 22530-A (WERC, 12/98), we found an employee to be managerial based on the ability to commit the agency's financial resources by working on grants and hiring outside consultants which, in turn, affected the nature and direction of the agency's operations. Here, the Disability Specialists are not hiring outside consultants, and they are not committing the College's resources by the work they are doing with regard to the grants. The grants are funding their positions.

The AODA Program Coordinator found to be a managerial employee in FOND DU LAC SCHOOL DISTRICT, DEC. NO. 7838-A (WERC, 8/01) is also distinguishable from the Disability Specialists, in that said employee coordinated the AODA program for the District; determined and organized the programs in which the District participated; wrote, administered and monitored state and federal grants, including federal entitlement grants, state and federal competitive grants and mini-grants; and ensured that the grant monies were expended in accordance with the purposes of the specific grants and had the authority to make adjustments

to grant proposals based on the amount of funding received for each grant as well as make reallocations of monies within a grant.

We find that the Disability Specialists are more similar to the non-managerial Student Assistance Program (SAP) Coordinator in NORTHLAND PINES SCHOOL DISTRICT, DEC. NO. 27154 (WERC, 2/92), who had an important role implementing policy but was not exercising discretionary power as to the type and level of services.

Given our conclusion that the Disability Specialists are not managerial employees, we have included the full-time Disability Specialists in the bargaining unit. As reflected in the preface to our decision, the Union has withdrawn its request for any Specialists that work less than 50% and the record indicates that the part-time Specialists work less than 50% of the 1950 hour yearly schedule of the full-time Specialists.

Dated at Madison, Wisconsin, this 1st day of December, 2006.

WISCONSIN EMPLOYMENT RELATIONS COMMISSION

Judith Neumann /s/

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Judith Neumann, Chair

Paul Gordon /s/

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Paul Gordon, Commissioner

Susan J. M. Bauman /s/

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Susan J. M. Bauman, Commissioner



