

BEFORE THE ARBITRATOR

In the Matter of the Arbitration
of a Dispute Between

1199W/UNITED PROFESSIONALS FOR QUALITY
HEALTH CARE, SEIU, AFL-CIO

and

STATE OF WISCONSIN
(SCHOOL FOR THE DEAF)

Case 418
No. 53952
SA-65

Penny Martine Discipline

Appearances:

Boushea, Segall & Joanis, 124 West Broadway, Suite 100, Monona, WI 53716-3902, by
Ms. Helen Marks Dicks, Attorney at Law, appearing on behalf of the Union.

Ms. Holly Georgell, Labor Relations Specialist, Department of Employment Relations,
Post Office Box 7855, Madison, WI 53707-7855, appearing on behalf of the
Employer.

ARBITRATION AWARD

Pursuant to the terms of the collective bargaining agreement between the parties, 1199W/United Professionals for Quality Health Care, SEIU, AFL-CIO (hereinafter referred to as the Union) and the State of Wisconsin (hereinafter referred to as the Employer or the State) requested the Wisconsin Employment Relations Commission to appoint a member of its staff to serve as arbitrator of a dispute between the parties over the discharge of Penny Martine from her position as a nurse at the School for the Deaf in Delavan, Wisconsin. The undersigned was designated. A hearing was held on August 5, 1996 at the School, at which time the parties were afforded full opportunity to present such testimony, exhibits, other evidence and arguments as were relevant to the dispute. After the taking of testimony before the undersigned, the parties conferred with WERC staff mediator Debra Wojtowski and arrived at certain conclusions regarding the likely outcome of the case should they conclude the hearing and submit written arguments. In anticipation of the Award, and in order to avoid unnecessary costs of further litigation, the parties agreed that the undersigned should issue the following Award on an expedited basis.

Now, having reviewed the agreements of the parties, and finding them fully consistent with both the record of the hearing and the collective bargaining agreement, the undersigned makes the following Award.

ARBITRATION AWARD

1. The grievant, Penny Martine, shall return to work on August 26, 1996 at the Wisconsin School for the Deaf and will fill a currently vacant part-time position; her seniority date is September 7, 1989 and her rate of pay when she returns to work will be \$17.504 per hour.
2. For six months from the date of her return to work, any infractions of the rules or policies of the employer (as currently written or subsequently amended or adopted) relating to conduct prohibited under current work rule D-1 (that is: violence, harassment, abuse, assault, intimidation, threatening acts (including verbal acts) or criminal conduct towards a student or a fellow employee) shall permit a summary discharge, subject to a hearing on proof;
3. This Award shall not be cited or relied upon as precedent in any other case;
4. The Union agrees that it will withdraw this grievance and that this Award shall dispose of any and all claims existing now or in the future that may be asserted on the basis of the facts of the instant case in this or another forum;
5. The parties will not discuss the facts that form the basis of this grievance arbitration and the Award with the media, nor will the parties seek publicity with respect to this matter. The parties will answer all media inquiries by referring to the official binding Award of the arbitrator, which is a matter of public record. The employer shall remove and/or expunge from its files any and all reference to the subject matter of this grievance. The Union may communicate the matter in its newsletter and other publications, but will limit such communication to indicating that the employee has returned to work pursuant to the Award and that any additional information may be ascertained by reference to that document;
6. In the event a full-time Registered Nurse position becomes available in the employing unit, the employee will be reinstated to the full-time vacancy. Such reinstatement shall be exempt from the provisions of the collective bargaining agreement with respect to transfer and the filling of vacancies and therefore is not subject to the grievance procedure;
7. The employee will be made whole for her lost wages and benefits for the period between the date of her discharge and the date of her reinstatement in the amount of \$29,932.00, which is the final figure adjusted for all deductible sums.

Dated at Racine, Wisconsin this 21st day of August, 1996.

By Daniel J. Nielsen /s/
Daniel J. Nielsen, Arbitrator

