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WISCONSIN EMPLOYMENT RELATIONS COMMISSION

**EDWARD B. KRINSKY, MEDIATOR-ARBITRATOR**

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| In the Matter of Mediation-Arbitration Between | |
| GRANT COUNTY PROFESSIONAL EMPLOYEES UNION, AFSCME, AFL-CIO | Case 26<br>No. 37602<br>MED/ARB-4055<br>Decision No. 24312-A |
| and | |
| GRANT COUNTY | |

Appearances:
Wisconsin Council 40, by Mr. Laurence S. Rodenstein, Staff Representative, for the Union.
Melli, Walker, Pease & Ruhly, Attorneys at Law, by Ms. JoAnn M. Hart and Mr. Jack D. Walker, for the County.

On March 25, 1987, the Wisconsin Employment Relations Commission appointed the undersigned as mediator-arbitrator in the above-captioned case. A mediation meeting was held at Lancaster, Wisconsin, on May 21, 1987. None of the outstanding issues were resolved. On June 15, 1987, an arbitration hearing was held. At the hearing both parties had the opportunity to present evidence, testimony and arguments. A transcript of the proceedings was made. The record was completed on October 21, 1987, with the exchange by the arbitrator of the parties' post-hearing reply briefs.

## Introduction

The parties' first Agreement resulted from a final offer arbitration decision by Arbitrator Vernon which was issued in April 1986. Prior to the issuance of that Award no issues were resolved. Therefore, Arbitrator Vernon was required to make a final and binding decision, on a final offer basis, covering more than three dozen issues which were in dispute for calendar years 1984 and 1985.

In the parties' bargaining for a new Agreement they agreed that it should be for three years covering 1986, 1987 and 1988. That is all that they agreed on. There are approximately twenty-five unresolved issues and once again an arbitrator is required to make a final offer arbitration decision, entirely in favor of one final offer or the other, on all issues. In the arbitrator's opinion this history of

non-agreement by the parties and their resort to two successive arbitrations on most or all sections of their Agreement represents collective bargaining at its worst. The parties owe it to themselves and to the citizens of Grant County to resolve their own differences and not allow dozens of issues to be resolved by an arbitrator rather than through good faith bargaining. As this Award demonstrates, no one party is "right" on all issues where dozens of issues are involved, but under the statutory process there is only one "winner."

The parties' final offers are attached to this Award. The arbitrator is directed by statute to consider specified factors in making his decision. He has done so. The discussion of wages which follows is presented in the order the factors are listed in the statute. The factors are also considered in the discussion of the disputed language items, but each such discussion is not presented in a manner which shows the relationship of each item to each statutory factor.

A few additional introductory remarks are in order. In their briefs the parties devoted much argument to the role the Vernon Award should play in the determination of the outcome of this dispute. Generally speaking, where the Vernon Award addressed an issue which is again at issue in this case, the arbitrator accepted the Vernon determination unless there were overriding considerations which suggested that a different outcome should result. The effect of the Vernon Award is clearly spelled out in the discussion of each issue.

Subsequent to the Vernon Award, the County and AFSCME entered into a voluntary agreement in the Orchard Manor bargaining unit, a unit not covered by this arbitration. Many of the County's proposed changes in the present case are based on its desire to have consistency in language and benefits between agreements. The arbitrator agrees that such consistency is desirable. However, he is not aware of the details of the bargaining which produced the Orchard Manor Agreement or what compromises and trade-offs were made in reaching that Agreement. Therefore, where the proposed changes are editorial and minor the arbitrator has supported them. Where the proposed changes are substantive the arbitrator has not viewed consistency with Orchard Manor as a sufficient basis for change and has urged that such changes come about as the result of bargaining between the parties, not arbitration.

Lastly, the County has made arguments dealing with allegedly conflicting information given by representatives of AFSCME to other arbitrators which, it alleges, has affected the outcomes of those awards and consequently the wage rates in some of the comparable counties. The Union denies that such occurrences have taken place. In the present proceeding

the arbitrator has not attempted to second-guess the evaluations made by other arbitrators of the evidence presented to them, nor has he attempted to verify the accuracy of information presented to them and accepted by them. In making salary comparisons the arbitrator has used the labor agreements in evidence with their stated wage rates, and he has not accepted assertions by the County about what may really have been the case that was different from the contractual wage rates.

Comparables

In the prior arbitration between these parties which resulted in the first Agreement, Arbitrator Vernon utilized the following external comparables: Columbia County, Crawford County, Green County, Iowa County, LaCrosse County, City of Lancaster, Lafayette County, Sauk County, Richland County, Unified Board of Grant and Iowa Counties, Vernon County. In selecting these comparables he made the following statements:

> . . . The Employer argues that the counties proposed as comparable by the Union are too dissimilar, based on economic conditions, to be meaningful. While there may be reason to argue there are differences, the Arbitrator does not believe they are so dissimilar to render them invalid. These employers are the only employers, public or private, with the exception of the Unified Board, that employ people who perform similar or identical functions to the employees in the instant bargaining unit. Thus, not to use them would handcuff the Arbitrator and leave him with little reasonable guidance as to what are reasonable wage levels and working conditions for employees performing these types of duties. Moreover, there is no reason, per se, to dismiss them as comparable because they are not first time contracts. While this might have some influence on the consideration of the merits of the offers as a whole, it is not a basis to totally discount them as reasonable guidelines.
>
> . . . the Arbitrator believes that as external comparables, the Unified Board, and in some respects the City of Lancaster, should be used for comparison purposes. By utilizing the Unified Board as comparable, some viewpoint can be gained on what is a reasonable wage level for similar employees under local economic conditions.

> . . . It is believed these employers (listed above) give the most reasonable mix of relevant comparability factors -- including similarities in employment, size, geography and economic factors.

In the present case, the Union has proposed to use the same comparables designated as appropriate by Arbitrator Vernon. In its brief the County argues that the arbitrator should reject some of these entities from the list of comparables: Columbia, Crawford, LaCrosse, Sauk, Vernon Counties and the City of Lancaster. It argues that Columbia, LaCrosse, Sauk and Vernon Counties are too remote from Grant County and that LaCrosse County is too urbanized. The County argues that these counties, and Crawford as well, "do not share the similar characteristics and economy which causes the state to group Grant, Green, Iowa, Lafayette and Richland into one region (the South West Region, so-designated by the State Department of Development).

In the prior arbitration case, Arbitrator Vernon rejected the County's arguments in favor of the list of comparables he used, described above. The arbitrator sees some merit for the collective bargaining process in continuing to use the same list of comparables unless there is compelling reason given to change the list. There has been no compelling reason given in this case, and the arbitrator does not have a sound basis in the evidence presented to him for concluding that the list urged by the County is more appropriate than the list designated by Arbitrator Vernon after he gave consideration to the parties' arguments.

There is no issue presented in this dispute with respect to the application of several of the statutory factors. Thus, no further consideration is given here to factors (a) lawful authority of the employer; (b) stipulations of the parties; and (g) changes in circumstances during the pendency of the arbitration proceedings. The parties did not focus their presentations on the question of overall compensation, and thus factor (f) "overall compensation presently received by the employes" is not considered separately, below.

Issue: Wages

Factor (c): Interests and Welfare of the Public and Financial Ability

The arbitrator is directed by statute to consider the County's ability to meet the costs of the final offers. The County does not assert that it does not have the ability to meet these costs, and thus no further consideration is given to that factor.

The County and Union both offered data about the economy of the County in comparison to the comparable counties. The

County uses these data to argue that its offer is preferred, given the economic climate. The Union uses the data to argue that the County is relatively well off economically in comparison to the comparable communities.

The data presented are summarized as follows:

| Statistic | Median of Nine Comparable Counties | Grant County | Rank of Grant County |
|---|---|---|---|
| Increase in Local Property Taxes Collected 1985 to 1986 | 3% | (-2.7%) | 10 |
| Average Effective Full Value Tax Rate - 1985 | $20.14 | $18.50 | 8 |
| Average Per Capita Property Tax - 1985 | $543 | $448 | 10 |
| Increase in Tax Levy 1986 to 1987 | 6.4% | 0.8% | 8 |
| State Aids and Credits Per Net Tax Dollars 1986 | $1.01 | $1.12 | 3 |
| Per Capita Adjusted Income | $5,258 | $5,149 | 6 |
| County Tax Delinquency | | | |
| 1983 to 1984 | +11.6% | +44.2% | 1 |
| 1984 to 1985 | +19.0% | +47.8% | 2 |
| Price Per Acre of Agricultural Lands | | | |
| 1984 | $1,125 | $1,121 | 6 |
| 1985 | $ 971 | $ 851 | 8 |
| Private Sector Weekly Wages 3rd Q 1986 | $248.03 | $219.57 | 10 |
| Local Government Weekly Wages 3rd Q 1986 | $250.42 | $256.71 | 4 |
| % Local Government Exceeds Private Sector Weekly Wages 3rd Q 1986 | 1.6% | 16.9% | 1 |

These data demonstrate that relative to the comparison counties, Grant County private sector wage economy is weak, as is the price for agricultural land. The increase in tax delinquency is relatively very high. On other measures the economy of the County is relatively sound and the tax rates are relatively low. Based on these statistics the arbitrator is not able to make a judgment that the interests and welfare of the public favor one party's final offer more than the other.

Factor (d): Comparison of wages, hours and conditions of employment with (those) of other employees performing similar services and with other employees generally (1) in public employment in comparable communities and (2) in private employment in comparable communities

Comparisons with External Public Sector Comparables

The parties presented their data and arguments in terms of both hourly rates and annual increases. They differed with respect to many of the figures, and it was necessary for the arbitrator to verify many of them using the labor agreements in the record of this arbitration and the Vernon arbitration. The following table shows the hourly rates for Social Workers which the arbitrator used in making his analysis.

| | Social Worker I -- Minimum | | | Social Worker I -- Maximum | | | Social Worker II -- Minimum | | | Social Worker II -- Maximum | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| County | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| Columbia | 7.78 | 8.06 | 8.34 | 8.91 | 9.19 | 9.47 | 8.71 | 8.99 | 9.27 | 9.86 | 10.14 | 10.42 |
| Crawford | 7.95 | 7.95 | n.s.* | 8.82 | 9.09 | n.s. | 8.03 | 8.03 | n.s. | 9.32 | 9.60 | n.s. |
| Green | x | 7.76 | n.s. | x | 8.98 | n.s. | x | 7.76 or 7.78 | n.s. | x | 8.98 | n.s. |
| Iowa | 6.80 | 7.20 | 7.49 | 9.10 | 7.40 | 7.70 | 7.30 | 7.70 | 8.02 | 9.60 | 8.06 | 8.58 |
| LaCrosse | 8.78 | 9.22 | 9.69 | 9.49 | 9.97 | 10.47 | 9.81 | 10.31 | 10.83 | 10.61 | 11.15 | 11.71 |
| Lafayette | n.a. | n.a.** | n.a. | n.a. | n.a. | n.a. | 8.04 | 8.44 | 8.60E 8.69U | 8.18 | 8.58 | 8.74E 8.84U |
| Richland | 7.68 | 8.00 | 8.20 | 8.30 | 8.64 | 8.86 | 8.37 | 8.72 | 8.94 | 8.99 | 9.36 | 9.59 |
| Sauk | 8.05 | 8.31 | 8.56 | 8.98 | 9.24 | 9.52 | 8.67 | 8.93 | 9.19 | 9.72 | 9.98 | 10.28 |

| | Social Worker I -- Minimum | | | Social Worker I -- Maximum | | | Social Worker II -- Minimum | | | Social Worker II -- Maximum | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| County | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| Vernon | 7.62 | 7.86 | 8.17 | 7.94 | 8.25 | 8.51 or 8.58 | 7.99 | 8.23 | 8.91 | 8.33 | 9.94 | 10.33 |
| Iowa-Grant | n.a. | n.a. | 7.51 | 7.34 | 7.52 | 7.88 | n.a. | n.a. | 7.88 | 7.69 | 7.88 | 8.23 |
| Grant Employer offer | 6.55 | 6.81 | 6.95 | 7.59 | 7.90 | 8.06 | 7.59 | 7.90 | 8.06 | 8.43 | 8.77 | 8.95 |
| Union offer | 6.55 | 6.88 | 7.09 | 7.59 | 7.97 | 8.21 | 7.59 | 7.97 | 8.21 | 8.43 | 8.85 | 9.12 |

* n.s. = no settlement
** n.a. = not applicable
x meaning of labor agreement not readily apparent

There is complete hourly data for Social Worker I and II minima and maxima for 1985, 1986 and 1987 for each of the following counties: Columbia, Iowa, LaCrosse, Richland, Sauk, Vernon, Iowa-Grant (maxima only) and Lafayette (Social Worker II only). These data show the following:

| | Social Worker I -- Minimum | | | Social Worker I -- Maximum | | | Social Worker II -- Minimum | | | Social Worker II -- Maximum | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| Rank of Grant | 7 of 7 | 7 of 7 | 7 of 7 | 7 of 8 | 6 of 8 | 6 of 8 | 7 of 8 | 7 of 8 | 7 of 8 | 6 of 9 | 6 of 9 | 6 of 9 |
| Median Rate | 7.73 | 8.03 | 8.27 | 8.91 | 8.64 | 8.86 | 8.37 | 8.72 | 8.94 | 9.30 | 9.65 | 10.01 |
| Grant Compared to | | | | | | | | | | | | |
| Median | (-$1.18) | | | (-$1.32) | | | (-$.78) | | | (-$.87) | | |
| Employer Offer | | (-$1.22) | (-$1.32) | | (-$.74) | (-$.80) | | (-$.82) | (-$.88) | | (-$.88) | (-$1.06) |
| Union Offer | | (-$1.15) | (-$1.18) | | (-$.67) | (-$.65) | | (-$.75) | (-$.73) | | (-$.80) | (-$.89) |

These hourly data support the Union's offer more than they do the County's offer. Both offers leave the bargaining unit Social Workers wages far below the median paid in comparable counties, but the Union's offer maintains the status quo while the County offer results in further relative deterioration of the wage rates.

As advocates and arbitrators are well aware, the choice of comparables can greatly affect the wage analysis. If one eliminates LaCrosse and Columbia Counties from the above analysis because of their distance from Grant County and recomputes the median figures the result is:

| Grant Compared to | Social Worker I -- Minimum | | | Social Worker I -- Maximum | | | Social Worker II -- Minimum | | | Social Worker II -- Maximum | | |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 | 1985 | 1986 | 1987 |
| Median | (-$1.13) | | | (-$.97) | | | (-$.44) | | | (-$.51) | | |
| Employer Offer | | (-$1.10) | (-$1.22) | | (-$.74) | (-$.46) or (-$.53) | | (-$.33) | (-$.70) or (-$.74) | | (-$.40) | (-$.21) or (-$.27) |
| Union Offer | | (-$1.03) | (-$1.08) | | (-$.67) | (-$.23) or (-$.30 | | (-$.26) | (-$.55) or (-$.59) | | (-$.32) | (-$.04) or (-$.10) |

Thus, in this analysis Grant County's wages are behind the comparable wage rates but not by as great a magnitude as suggested by the analysis which included LaCrosse and Columbia Counties.

The arbitrator has used the following hourly rates for Home Health Nurse, taken from the exhibits and labor agreements in the record of this arbitration and the Vernon arbitration:

Home Health Nurse
(or equivalent)

| County | 1986 Maximum | 1987 Maximum |
|---|---|---|
| Columbia | 9.26 | 9.54 |
| Crawford | 9.15 | 9.15 |
| Green | 8.86 | n.s. |
| Iowa | 8.64 | 8.82 |
| LaCrosse | 10.72 | 11.04 |
| Lafayette | 8.58 | 8.74-Er<br>8.84-U |
| Richland | 8.89 | 9.11 |
| Sauk | 9.09 | 9.36 |
| Vernon | 10.28 | 10.69 |
| Iowa-Grant | 8.65 | 9.13 |
| Grant | | |
| Employer Offer | 8.80 | 8.98 |
| Union Offer | 8.89 | 9.16 |

The following analysis of the data excludes Green County because no 1987 figure is available:

| | | |
|---|---|---|
| Rank of Grant | 6 or 7 of 10 | 5 or 8 of 10 |
| Median = | $9.09 | $9.15 |
| Grant Compared to Median | | |
| Employer Offer | (-$.29) | (-$.17) |
| Union Offer | (-$.20) | (+$.01) |

If Columbia and LaCrosse Counties are left out of the analysis the figures are:

| | 1986 | 1987 |
|---|---|---|
| Median | 8.88 | 9.13 |
| Employer Offer | (-$.08) | (-$.15) |
| Union Offer | (+$.01) | (+$.03) |

These data appear to favor the Union's offer more than the County's, but they only show the relationship of maximum rates and for a two-year period.

There are only a few counties among the comparables that have Social Worker III positions. The data are not sufficient to be meaningful, in the arbitrator's opinion.

The parties present conflicting data in many instances in attempting to characterize the annual increases granted in the comparison counties. The arbitrator has not attempted to verify them by any other means than using the documents in evidence. The parties present the following data:

Percent Increase

| County | 1986 | 1987 | 1988 |
|---|---|---|---|
| Columbia | 3% | 3% | |
| Crawford | U - calculation 4%<br>Er - calculation 2.25% | Er - offer 0%<br>U - offer 5% | Er - offer 3% |
| Green | 2.75% | | |
| Iowa | U - calculation 6.1%<br>Er - calculation 5.2% | U - calculation 6.4%<br>Er - calculation 5.2% | |
| Iowa-Grant | U - calculation 7.15 - 18.0%<br>Er - calculation: Teamsters Unit 4.0% Professionals 2.5% | U - calculation: Er - offer 2% U - offer 4%<br>Er - calculation: 2.5% + Union proposes extra step | Er - offer 2% |
| LaCrosse | 5% | 5% | |
| Lafayette | U - calculation 5.8%<br>Er - calculation Social Workers & Nurses 4.9% | Er - offer 1.9%<br>U - offer 3.0% | 3.0% |
| Lancaster (City) | 4% | 4% | |
| Richland | 4.2% | 2.5% | 2.5% |
| Sauk | 3% | 3% | |

| County | 1986 | 1987 | 1988 |
|---|---|---|---|
| Vernon | U - calculation 4%<br>Er - calculation<br>Social Workers 3% | 4% | |
| Grant | | | |
| Er Offer | 3% + 1% | 2% | 2.5% |
| U Offer | 4% + 1% | 3% | 3% + 1% |

For 1986, if one assumes the accuracy of all of the County's calculations, the median increase is 3%. If one assumes the accuracy of all of the Union's calculations, the median increase is 4%. In either event, the County's offer which raises the end rates 4% is closer to the comparables than the Union's offer which raises the end rates 5%. 1/

The data for 1988 is sparse. Insofar as it is available, the County's 2.5% offer is closer to the comparables than the Union's offer which raises the end rates 4%. 1/

Viewed over the three-year period, it appears to be the case that the County's offer is more in line with the increases given in the comparison counties than is the Union's offer. The meaningfulness of these comparisons is diminished somewhat, however, by the fact that many of the comparison units have more categories of employees in them than just professional social workers, nurses and attorneys which are in the bargaining unit involved in this case.

Internal Public Sector Comparisons

The following data are for employees of Grant County other than those in the bargaining unit:

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1/ The result is the same when the analysis is done using only those settlements about which there is no dispute.

| | 1986 | 1987 | 1988 |
|---|---|---|---|
| Sheriff's Unit | 5.0% (2.0% 1-1-86 + 3.0% 7-1-86) | 2.0% | 2.5% + Union final offer of 3.4% for Clerk-Secretary position |
| Orchard Manor | U calculation: 4.2 - 15.0% Er calculation: 15.1% average | 2.0% | 2.5% |
| Unrepresented | 3.0% | 2.5% | |
| Professionals | Er offer 4% (3.0% + 1.0% 7-1-86) U offer 5% (4.0% + 1.0% 7-1-86) | Er Offer 2.0% U Offer 3.0% | Er Offer 2.5% U offer 4.0% (3.0% + 1.0% 7-1-88) |

These results appear to favor the Union's final offer in 1986, the County's offer in 1987, and the County's offer in 1988. Over the three-year period, they would appear to favor the County's offer.

Private Sector Comparisons

The only private sector comparison data is provided by the County which presented data on one union-represented company located in Lancaster. In that company the employees received 1986 and 1987 increases of ten cents per hour in each year which, according to the County, was an increase of 2.3% in 1986 and 2.2% in 1987. These comparisons are closer to the County's offer than to the Union's offer, but little weight should be given to one private sector settlement, in the arbitrator's opinion.

Factor (e): Cost of Living

The statute directs the arbitrator to consider the increases in the cost of living. The parties did not submit cost-of-living data, but the County's brief asserts that the increase was 3.5% in 1985 and 1.5% in 1986. The Union does not dispute these figures. Both parties' offers for 1986 and 1987 are in excess of the increase in cost of living. The County's offer is closer to the cost-of-living increase and thus would be preferred based on this factor.

Summary of Wage Issue: The wage data, based on annual wage increases, favors the County's offer when external and internal comparisons are made and the cost of living is considered. The hourly rate data for Social Workers and Nurses favors the Union's offer.

Issue: Article 1.02 - Non-Discrimination

The County proposes to delete the non-discrimination language of the Agreement. It notes the absence of any such language in its voluntary agreements at Orchard Manor and the Sheriff's Department. Deletion of the language, it argues, would eliminate the possibility of having duplicate forums for discrimination cases, and such matters are better left to the administrative agencies and courts. The County argues that public and private sector comparables do not have such language in their agreements, and such language is present in only three of the comparables used by the Union.

The Union argues that the County has shown no compelling reasons for the deletion of this language.

In the prior arbitration, Arbitrator Vernon did not have a preference for the language of either party, but he said with respect to the Union's language (which became part of the Agreement), ". . . reason supports the Union's position. By making arbitration available for such claims, a relatively quick and inexpensive resolution process is available which may have satisfactory results for the parties, thus avoiding the expense of pursuing remedies or defending claims elsewhere."

It is the arbitrator's view that this language should remain in the Agreement. There is no compelling reason given for removing it. While it is the case that most of the comparable agreements do not have this language, the County is not harmed by having it and the arbitrator believes that there should be important reasons given before allowing deletion of language which protects employees against discrimination even if their rights would continue to be protected by law without such language in the Agreement.

Issue: Article 1.03 - Definition of Employees

The County proposes to make certain language changes in the section defining regular part-time employees. These are editorial changes which would make the language of this section more like the language of the comparable section of the Orchard Manor Agreement.

The Union did not make any arguments with respect to this issue.

This is not a significant item, nor is it controversial. There is no showing of a need for the change, but in the interest of simplicity and consistency of language between agreements, the arbitrator favors the County's position.

Issue: Article 2.01 - Management Rights

The County proposes to eliminate the words "for just cause" from its management rights "to suspend, discharge or otherwise discipline employees for just cause. . . ." The purpose of the proposed change is to make the language identical to the Orchard Manor Agreement. There is no substantive impact because the Discipline article of the Agreement specifies that "The Employer shall not suspend, discharge or otherwise discipline any employee without just cause."

The Union did not make any arguments with respect to this issue.

This appears to be an editorial change which would result in the language of the two agreements being the same. Since it is not controversial or substantive, the arbitrator would agree that consistency between agreements is preferred, and for that reason prefers the County's offer.

Issue: Article 3.01 - Union Notices

The County proposes to continue to provide bulletin boards but to delete language making them "easily accessible" and instead providing that "employees can commonly view (them)." It also would change the requirement that they be at each principal "worksite" to each principal "building of the County." The County's rationale is that the proposed language would make it nearly identical to the language in the Orchard Manor contract.

The Union did not make any arguments with respect to this issue.

The arbitrator does not view this issue as being of any great significance. There is no claim that there is a need for this change except to have consistent language from one contract to another. Since it is not controversial or substantive, the arbitrator would agree that consistency between agreements is preferred, and for that reason prefers the County's offer.

Issue: Article 4 - Fair Share

The County proposes to make language changes in Sections 4.03 and 4.05 of the existing language and to delete 4.04 entirely (see attached County final offer). Because, the County argues, "Fair share is becoming an increasingly highly litigated area (it) is therefore particularly important . . . that the Orchard Manor and professional unit contracts on fair share be identical," and its proposal would accomplish that. The proposed deletion of 4.04 is based on the lack of identical language in the Orchard Manor Agreement.

The Union argues that, "Administration of the yet unimplemented fair share referendum would be made more difficult under the County proposal. Without an itemized list of employees, the local would be unable to verify whether the proper number of fair share payers have had their dues deducted." The Union makes additional arguments, not detailed here for sake of brevity.

The arbitrator sees merit to both parties' arguments. He agrees with the County that it is desirable that fair share language be identical in all of its agreements, but he is not persuaded that the existing language is any less desirable than the language in the Orchard Manor Agreement and thus he has no position with respect to whether the language of this Agreement or the one at Orchard Manor should be changed. Since this item appears to involve more than minor, non-controversial changes, it is the arbitrator's opinion that these language changes should be bargained rather than imposed by the arbitrator, notwithstanding the fact that the existing language came about through arbitration. Since the arbitrator does not favor one offer more than the other on the merits of this issue, and since he is not persuaded of the need for change, he supports the Union's position which would maintain the existing language.

Issue: Article 5 - Grievance Procedure

The County proposes several language changes for the purpose of making the grievance procedure in the Agreement identical to the one in the Orchard Manor Agreement. The effect of the language is to increase the time allowed for filing of grievances from ten to fifteen days. It also changes the date on which the clock begins to run for the grievance filing deadline from the present language which states ". . . days of securing knowledge thereof . . ." to language which states, ". . . days after the Union or any affected employee should have reasonably known of the occurrence of the event causing the grievance." There is also a change to increase the number of days from fifteen to twenty in which the parties will meet at Step Three.

The Union argues against the proposed change. It argues that the change would alter the standard used for determining when a grievance may be filed and would change the burden from the County to the Union or the grievant by allowing the County to argue about when the employee should have reasonably known of the event causing the grievance, rather than keeping the present burden on the County to prove that the grievant or the Union had knowledge of the event. The Union argues that the County has not presented any evidence of need to change the current language.

In the arbitrator's opinion, the County's proposal with respect to when the grievance filing time lines begin is a substantive change, not merely an editorial one. There is no demonstration by the County of a need for the change. The arbitrator believes that it is preferable that such a change be bargained, rather than imposed by arbitration, notwithstanding that the existing language came about through arbitration. The arbitrator is not persuaded that there is a need for the grievance procedure language to be identical to the Orchard Manor or other County agreements, and consistency and neatness, while desirable, are not sufficient reasons for imposing the change.

The arbitrator favors the Union's offer on this issue.

Issue: Articles 6 and 8, Discipline and Probationary Period

At 6.01 of the Agreement the County proposes to specify that its agreement to not suspend, discharge or discipline employees without just cause applies only to "nonprobationary" employees. The present language says "any employee." (The existing Article 8 makes clear that a probationary employee shall be subject to dismissal without cause or subject to the grievance procedure.") Also, at Article 6 where there is a requirement that notice of such actions ". . . shall include the reasons on which the Employer's action is based," the County proposes a change to ". . . shall include the primary reasons . . ." The present Article 8 provides for a six-month probationary period for all newly hired employees. The County wants to change the probationary period to nine months for employees regularly working less than an average of 20 hours per week during the first six months of employment. The County also proposes to eliminate the requirement that a probationary employee who is terminated receive a written reason for the termination.

The County proposes the changes in order to make these provisions identical with the provisions of the Orchard Manor Agreement. With respect to the proposed nine-month probationary period, the County argues that there is even more justification for such a provision in this unit than in other units because this unit has professional employees, "who are

in complex, detailed and procedure-filled positions. It takes a long time for an employee in such a position just to learn the job; the County can't properly evaluate an employee who is unfamiliar with his or her job." The County argues that there is support for its position in comparable contracts, also.

The Union argues that the present language should remain in effect. It argues that the comparable contracts don't differentiate between full-time and part-time employees' probationary periods and do not provide for nine-month probationary periods except by mutual agreement. Moreover, the Union argues, there has been no evidence presented by the County of any problems caused by the existing probationary period or the notice requirement.

Arbitrator Vernon dealt with these issues in his Award. He stated:

> . . . All of the valid comparables involve professional classifications, and only one provides for more than six months--and that is by mutual agreement only. Thus, it appears, based on the comparables, that six months is a sufficient period to judge the performance of a new employee.
>
> With respect to the notice of termination required under the Union's proposal, the Arbitrator is not convinced of any valid constitutional considerations which would compel rejection of their proposal.

The arbitrator has no basis for disagreeing with Arbitrator Vernon's analysis of these issues in which he supported the Union's position. The County has present no persuasive evidence of any problems with the administration of the existing language. The arbitrator understands that it would be neater and perhaps fairer to have the same standards in effect County-wide for probationary periods and related procedures, but the arbitrator does not view the existence of other language negotiated voluntarily in other County agreements as compelling reasons for requiring that the County's language be adopted here. The length of the probationary period is a substantive issue and the existing language is compatible with comparable public sector contracts for professional employees. The parties should bargain changes in the language rather than look to an arbitrator to impose them since there is no showing of compelling need to make the changes.

The arbitrator prefers the Union's offer on this issue.

Issue: Article 7 - Seniority

The County proposes to change the language at 7.01 (B) to take the "for cause" language out of the portion of the language which says that an employee loses seniority when the employee is discharged or terminated during the probationary period, and state instead that an employee loses seniority if ". . . discharged under this contract." Also, the County proposes to add subsections (D) and (E), thereby adding two new bases for loss of seniority: failure to timely accept recall, and failure to return from leave of absence.

The County argues that these changes will make the seniority provisions identical to those of the Orchard Manor Agreement. In addition, the County argues that the addition of subsections (D) and (E) are supported by the comparable contracts.

The Union argues that there is no evidence presented to indicate that these changes are necessary.

In the arbitrator's opinion the changes at 7.01 (B) are cosmetic, because of the appearance of "for cause" language elsewhere in the Agreement and the existence of language making clear that probationary employees may be discharged without cause. The proposed additions to 7.01 (D) and (E) are substantive, and preferably should be implemented through bargaining, rather than through arbitration. The County has shown that the comparable contracts presented by the Union have provisions similar to those sought here by the County, as does the Agreement reached with the Union at Orchard Manor. In the arbitrator's opinion the changes sought are reasonable and are supported by internal and external comparables. The arbitrator supports the County's position on this issue.

Issue: Article 9 - Job Posting

The present job posting language at 9.03 provides that the most qualified applicant be selected, but that if two or more applicants are "relatively equal in qualifications, seniority shall be the determining factor." The County proposes to eliminate this language, substituting language which it argues "will give recognition to . . . seniority." The proposed language states, "appointment to professional positions entails subjective and judgmental decisions, so that the final selection shall be in the employer's sole judgment."

The County objects to the current language which does not define "qualified." It argues that its proposed change gives the County exclusive judgment in the selection process and eliminates having an arbitrator be the judge of

qualifications. The County argues that special considerations are involved in selection of professional employees such as the attorneys, nurses and social workers in this unit. It states:

> . . . The Union's language makes the employer's selection subject to an arbitrator's determination of who is "most qualified," or whether applicants are "relatively equal." These phrases may be fairly easy to apply when the question of qualifications revolves around how many pieces of machinery the applicant has experience operating, or how many years the applicant has held a welding certification, or how many words per minute the applicant can type. However, the question of who is best suited to be in the unit position of protective services investigator involves a judgment as to how an individual will perform under the pressure of deciding whether or not to remove an abused child from the home. That decision can become a life or death decision. The question of who is best suited for that position involves a subjective weighing and balancing of an applicant's work and personal experiences, special knowledge, aptitude, personality characteristics, maturity and judgment. The employer should select the employee the employer believes is best suited to that position, and the other diverse, specialized positions in the department. That selection should not be made by a grievance arbitrator.

The County argues that the "test" set out in the Vernon Award, quoted below, is precisely what should not have to be applied in selection decisions for this bargaining unit.

The County also argues against the Union's language because it does not clearly state that outside applicants can compete with unit employees, and because it does not clearly restrict bidding between departments, e.g. it doesn't restrict an attorney or a nurse from bidding for a social worker position.

The County finds support for its arguments in the comparables. In the County Sheriff's contract, seniority is given a maximum of 25% in job selections, while the employer's judgment is given 40%.

The Union views job posting as a fundamental issue, and argues that the County has presented no evidence of any problem or of a need to change the language. In its view the comparable contracts support its position.

Arbitrator Vernon dealt with this issue in his Award. In that case the present language was offered by the Union, while the County made no proposal. The Vernon award is quoted at length in this section both because it deals squarely with the issues and because the arbitrator agrees with Arbitrator Vernon's analysis.

> The Employer also objects to the selection criteria in Section 9.03 . . . The Union's proposal is a middle of the road clause which favors Management because they still can choose the most qualified, in their judgment, person for the job. The only restriction is that if two or more applicants are "relatively equal," seniority prevails. While this term may seem ambiguous, it has been subject to interpretation many times and it is generally accepted that Management's opinion as to whether someone is not relatively equal will be upheld if it can be demonstrated that the junior employee has appreciable superior performance which can be demonstrated based on the requirements of the job. In addition, the "relatively equal" standard is virtually identical to the large majority of the comparables, contrary to the characterization of these contracts by the Employer.

The arbitrator has reviewed the comparables cited by the County, and he has found that many of them are similar to the existing language in that seniority is the governing factor where the other factor(s) are relatively equal. 2/

In these contracts, involving professional employees, the Employer has the burden of proving, to an arbitrator if necessary, that seniority should not govern because the other stated criteria are not relatively equal.

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2/ This is true in Vernon County ("provided the employee has the skills, abilities, and efficiencies to perform the necessary job duties"); Iowa County (where "qualifications and abilities" are relatively equal); Green County ("provided the employees' qualifications meet minimum standards and are relatively equal"); Lafayette County ("where two or more applicants are relatively equal"); Columbia County (provided "employee's aptitude, ability and qualifications are relatively equal"); LaCrosse County (seniority is given first consideration; "skill, ability and efficiency" prevail if they substantially outweigh seniority); Sauk County (provided "training, qualification, experience and performance" are relatively equal).

The arbitrator, having reviewed the comparables and the Vernon Award, is of the opinion that there is no justification shown by the County for its proposal to put promotional decisions exclusively in its hands, and it has shown no evidence of operational difficulties with the current language which would support the need for a change in it. On this issue the arbitrator supports the Union's position. 3/

Issue: Article 9.04 - Trial Periods

At 9.04 the County proposes to eliminate entirely the language which gives a trial period of up to sixty days to an employee, and which allows that employee to return to the former position if he/she ". . . fails to make satisfactory progress for the position . . ." and which also allows the employee to return to the former job voluntarily during the trial period. The County would also delete language entitling the employee to receive a written evaluation of progress during the trial period after thirty days. It argues that there is no similar language in the Orchard Manor Agreement. It argues, "Contract language which permits employees to unilaterally vacant (sic) their current position and displace their replacement is unproductive and ill-advised." The County argues further that its position is supported by the comparable contracts.

The Union argues that there is no evidence of any problem presented by the County which justifies deletion of the trial period language. It argues further that its position is supported by the comparable contracts.

The arbitrator understands that hypothetically there may be problems caused by implementation of a trial period, especially where the employee decides to return to the old job, and he understands also that it might be difficult to meaningfully evaluate an employee after thirty days of a sixty day trial period as required by the existing language. Such potential difficulties do not justify elimination of the trial period provisions. This is particularly the case

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3/ The parties' briefs indicate that they interpret the existing contract language differently with respect to what obligation the County has, if any, to consider bargaining unit members for positions prior to considering outside applicants. The arbitrator is not making any determination of that dispute in this proceeding.

where, as here, it is evident that trial periods are common among the other comparable contracts covering professionals. 4/

The County is correct when it argues that it is alone in being required to evaluate employees in writing during a trial period within thirty days. The reasonableness of this requirement may be legitimately called into question, but that does not provide justification for deleting the trial period provisions.

On this issue the arbitrator favors the Union's final offer.

Issue: Article 10 - Layoff and Recall

The existing language allows employees to bump into an equal or lower classification, "provided they are qualified to perform the junior employee's job . . ." The County proposes to have the language read, "provided they are qualified to perform the junior employee's job, including special skills." Similarly, in the recall language which now provides that recall be in order of seniority, "provided they are qualified to perform the available work," the County would add "including special skills." The County also proposes to reduce the time period with which an employee must respond to layoff from fourteen days to seven days. The County gives the following rationale for its changes:

> Because of the varied and complicated functions required in some of the professional unit positions, particularly among the social workers, the County needs the flexibility in laying off, to be able to take into account the special skills of some employees over others.
>
> The County proposed the phrase "including special skills" in recognition of Arbitrator Vernon's view

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4/ For example, Vernon County has a ninety day trial period, and return to the job at the option of either the County or the employee; Iowa County Social Workers have a sixty day trial period, and either the County or the employee may opt to have the employee return to the job. The same is true of Green County Social Workers with a thirty day trial period, and Lafayette County with a fifteen day trial period. LaCrosse and Sauk Counties have similar provisions with six month trial periods and either party having the option to have the employee return to the job.

that the employer should be able to deviate from seniority in layoff or recall in "special circumstances . . . for special reasons." 5/

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5/ As mentioned above, Arbitrator Vernon addressed the issue of exceptions from seniority in layoff and recall. He stated:

> The Arbitrator agrees with the Employer that it is not unreasonable to expect that in special situations an employee, for special reasons, should be exempted from the strict observation of seniority rules. However, the Employer's language goes way beyond this, while the Union's language still allows enough latitude -- in that it requires an employee to be "qualified before bumping ..." for the Employer to make a case for retaining an employee with special skills. The Employer's language is so broad that it goes beyond that which is usually observed in a contract. For instance, the Sheriff's Department contract allows an exemption when a person has a "special skill which in the reasonable judgement (sic) of the County or the Sheriff's Department should be retained." Other contracts also speak of special skills. However, the County's proposal speaks not only of special skills but of a level of performance which, if they wished to retain, they could. This goes one step further and not only allows an exemption based on necessary skills, but allows an exemption based on a much more subjective matter of performance. Moreover, the other clauses which provide for exemptions imply that an exemption applies when reasonably necessary, not merely desirable. In addition, it is believed their proposal makes such decisions much less reviewable than they are under other contracts.
>
> In short, while an employer's exemption from seniority in layoffs is not unusual, the Employer's methodology to achieve this is not only unorthodox but goes far beyond any reasonable balance between seniority and Management rights. Their proposal basically guts seniority. A more balanced result is more likely under the Union's offer because there is no severe limitation on an Arbitrator's review, and because the Employer could reasonably argue that a special skill is legitimately related to the requirement of a job. Therefore, with respect to layoffs, the Union's offer is more reasonable.

The County argues that the comparable agreements support its position that the employer must have more flexibility than the existing language allows. The proposed change in the recall period from fourteen to seven days is offered in order to make the Agreement the same in that regard as the agreements at Orchard Manor and in the Sheriff's Department.

The Union argues that there have been no problems with the existing language, and the County has not demonstrated the need for a change. It argues further that the proposed language, "special skills" is "patently ambiguous," and it suspects that the County will use this language to "effectively undermine the seniority principle for layoff and recall." The Union argues also that the language of comparable agreements supports its position.

The arbitrator has read the provisions of the comparable agreements cited by the parties, and he finds that most of them do not have the kind of special skills exception sought here by the County. There are provisions in the Unified Board, LaCrosse County and Vernon County agreements which are similar to those proposed by the County. In other agreements the employers have somewhat greater flexibility than does the County in the existing language (Iowa, Lafayette and Sauk), but not the degree of flexibility called for by the County's proposal. Given that there has been no demonstrated need for change of the language, and that there is not clear support based on comparable agreements for making such a change, and given the arbitrator's preference for bargained rather than arbitrated substantive language changes, the arbitrator is of the opinion that the existing language should be maintained, and he thus favors the Union's offer on this issue.

Issue: Article 11 - Hours of Work

The existing language fixes the hours of "the normal work day" for all employees. The County proposes language to give it flexibility, ". . . the employee may be assigned schedules required to perform the professional duties of their employment; the employer shall recognize and accommodate the employee's need for regularity in hours to the extent reasonably possible." The existing language also provides that an employee may take compensatory time at the employee's discretion, subject to approval. The County proposes to delete that language, stating instead that "Compensatory time may be scheduled by the supervisor." The County also proposes to delete language under which job sharing may be arranged, and it deletes 11.04 which allowed for flexible scheduling subject to the supervisor's approval. The County argues that the only way, at present, to have flexibility of employee work hours is to pay compensatory time. It cites the need to be able to meet client needs for services outside of an 8 a.m.-4:30 p.m. period and to

implement new programs which it is contemplating and which require flexibility. Under the County proposal there would still be eight hour shifts, and no split shifts.

The County argues that its proposal is supported when comparable agreements are considered. Also, in its view, its proposal provides the balance of interests with which Arbitrator Vernon was concerned when he considered the issue of hours (see below).

The Union argues that the County has presented no evidence of problems with the existing language or any compelling need to change the language. It argues that the existing language accommodates flexibility of hours on a mutually agreed basis between employees and supervision.

As mentioned above, Arbitrator Vernon considered the question of hours. In that initial arbitration the County made no proposal. Arbitrator Vernon stated:

> There is (sic) no doubt occasions when the professional in the unit may be required, by the nature of their work, to perform duties outside the hours which would be established under the Union's offer. To that end, several of the comparables, while establishing normal and regular hours, provide for exceptions in certain cases. Thus, it is not unreasonable for the Employer to desire some flexibility in this area. However, the Employer goes too far in not making any proposal. They seek to strike no balance at all between the employee's need for regularity in hours and the Employer's need for flexibility. The Union's offer is more typical of the comparables since all set forth the normal workweek and workday. Moreover, although the Union's proposal does not provide for exceptions, it is implied that exceptions may be made by mutual agreement. It is noted that this is all that is provided for in some of the comparables.

The arbitrator has reviewed the comparables cited by the parties with respect to hours of work. There is support for the County's position that there should be greater flexibility in scheduling, although some of the agreements require notice of schedule changes and discussion in advance of implementation. It also appears to be the case that most agreements provide that compensatory time is to be taken at times mutually agreed between the employee and supervision. Thus, these agreements do not support the Union's position

under the existing language that compensatory time is taken at the employee's discretion, and they do not support the County's proposed language which leaves it to the supervisor's discretion.

This is a most important substantive area, and like others, it is the arbitrator's view that it should be bargained, not established by arbitration. The existing language is weighted heavily in the employees' favor and does not adequately meet the County's need for flexibility in scheduling. The County's language would tilt the balance heavily in its favor by having no effective limits on schedules outside of what is now the normal work day, except to require that the eight hours be consecutive, and by having utilization of compensatory time solely at management's discretion. The arbitrator is not persuaded that either party's proposal is preferred on its merits.

There is no persuasive evidence offered by the County to demonstrate that it cannot now provide service to its clients efficiently under the existing language. It may be the case, as it argues, that the County's language would remove scheduling restrictions and allow the implementation of more innovative and efficient programming, but the proposed language does not provide adequate safeguards for the affected employees. On balance, the arbitrator sees greater justification for maintaining existing language than for allowing the County to make the proposed changes.

Issue: Article 13.06 - Sick Leave

The existing language provides that a person who is sick for three consecutive working days may be asked to provide a doctor's excuse. The County proposes to delete that language and provide instead that a medical report is required for absences in excess of five consecutive working days, and may be required for other "absences of sick leave . . . where there is a basis for suspicion of abuse . . ."

The County argues that its proposed language is identical to that contained in the Orchard Manor Agreement, and it is in the interests of the parties to have consistency in an area such as sick leave administration.

The Union argues that there is no evidence of problems or abuse of sick leave. It sees the proposed change as an expansion of County rights.

The County's proposed change was included in its final offer considered by Arbitrator Vernon. He stated, ". . . Nor, is their proposal to require a doctor's excuse after five days unreasonable, since they could do so in any event."

The arbitrator shares the County's view that it will avoid confusion and result in greater equity if County employees are subject to the same rules for sick leave administration. The County could require a doctor's excuse after five days under the existing language. The arbitrator views this proposed change as more cosmetic than substantive. It is not a major issue. Given the identical language in the Orchard Manor Agreement, and Arbitrator Vernon's support of the County's language in the initial arbitration, the arbitrator favors the County's offer on this issue.

Issue: Article 14.05 - Holiday Pay Requirements

The existing language requires that in order to receive holiday pay, "employees must work their scheduled work day before and after the holiday or, the day scheduled as the holiday, unless the employee is on an authorized paid leave."

The County proposes language which states, "Employees must work as assigned, if assigned the work day before and after the holiday and the day scheduled as the holiday unless excused by the employer . . ."

The County argues that its proposed language is identical to that contained in the Orchard Manor Agreement, and it argues that uniformity is important in the area of holiday pay administration.

The Union argues that its language is supported by the comparable agreements. It also argues that the County's proposed language would adversely affect the employees:

> Unless excused by the County, employees will have no way of earning holiday pay on a day off. Only by working on a holiday itself would employees be able to qualify for holiday pay under the Employer's proposal.
>
> . . .
>
> . . . either work the holidays for straight pay (like any other workday of the year) or be prepared to forego pay on the holiday off, is the essence of the County proposal.

The Union argues that there is no compelling reason for making a change in the language.

The arbitrator is somewhat confused by the Union's objections to the County's proposal, since if there is the adverse effect argued by the Union, why then did it agree to

that language in the Orchard Manor Agreement? The arbitrator is also somewhat confused by the meaning and intent of the County's proposed language which is stated in terms of "assigned" rather than "scheduled" as in the existing language.

The arbitrator shares the County's view that uniformity of holiday pay administration is desirable. On the other hand, the County has not demonstrated the need for the change, nor has it demonstrated support for its language in other comparable agreements. Even though it is the case that the Union has accepted the County's language in the Orchard Manor Agreement, the arbitrator views this language as less than clear. He views the change as a substantive one, and he believes that such changes should be bargained, not made through arbitration. For these reasons the arbitrator believes that the present language should be maintained, and he thus supports the Union's offer on this issue.

Issue: Article 15.02 - Discretionary Days

The existing language provides that employees must notify their supervisor of their intent to use discretionary time subject to the supervisor's approval.

The County proposes to change the language to require three days' advanced approval of their supervisor of use of discretionary days unless otherwise agreed.

The County argues that the proposed language is identical to that contained in the Orchard Manor Agreement, except that there one day advanced approval is required, not three as proposed here. The County argues that more advanced notice and approval is required in a professional unit, ". . . where each social worker is handling his or her own client load, and each nurse is handling his or her own geographical area." The County argues that its change is supported by, ". . . both the comparables and common sense."

The Union argues that the County has not demonstrated a need for the change. The Union notes that the current language affords protection for the County's concerns about staffing since use of discretionary time is subject to the supervisor's approval. The Union argues also that "Providing a three (3) day waiting period is an oxymoronic requirement for a 'discretionary day' concept."

The County has not demonstrated a need for this change. In the prior arbitration its offer was for one day advanced notice, and Arbitrator Vernon supported the County on that point. The Orchard Manor Agreement also has one day advanced notice and thus consistency does not require a change to a three day requirement. There is no question that a three day

requirement gives the employee less flexibility than now exists for using discretionary days. This is a substantive change which is better achieved through bargaining than through arbitration. For all of these reasons the arbitrator supports the Union's position on this issue.

Issue: Article 16.01 - Funeral Leave

The existing leave provides for three days' funeral leave "for the death" of various specified relatives of an employee. The County proposes that such leave be "for the funeral and other matters relating to the death." For other specified relatives, the existing language provides one day leave "for the death." The County proposes that such leave be "to attend the funeral of" those relatives.

The County argues that its language is identical to that found in the Orchard Manor Agreement. In addition, the proposed language extends the entitlement to the one day leave to attend the funeral of several relatives who were not included in the existing language.

The Union argues that there is no evidence presented by the County of a need to change the existing language. The Union is concerned about the administration of the proposed language. Does the employee have to attend the funeral, it asks, and what happens if there is no funeral?

The arbitrator notes that the County's language is more generous in providing entitlement to employees for an enlarged category of deceased relatives. However, it is more restrictive in that it appears to require attendance at the funeral for the one day leave whereas the present language simply states "for the death of . . ."

This is not a major item, but it is a substantive change which should be bargained rather than imposed through arbitration, notwithstanding the desirability of consistency between the County's collective bargaining agreements in the administration of benefits. For this reason the arbitrator favors the Union's position on this issue.

Issue: Article 17.01 - Military Leave

The County proposes to amend the Military Leave language to put a cap of two weeks on the amount of pay for such leave in a given year. It cites the fact that the Orchard Manor contract has a provision identical to the one proposed. It also cites the Vernon Award in which the arbitrator favored the County's position that there should be such a cap.

Vernon cited the comparables and concluded, "Where a military provision exists, there is also a cap." The cap proposed by the County in that proceeding was two weeks.

The Union did not make any arguments with respect to this issue.

Based on the Vernon award and the subsequent negotiations of the Orchard Manor contract containing such a provision, the arbitrator favors the County's final offer on this issue.

Issue: Article 20.1 - Wisconsin Retirement Fund

The County proposes to put a cap on its retirement fund contribution at the present statutory level, 6%. The language proposed is identical to that contained in the Orchard Manor Agreement. There is also a cap on the contribution in the Sheriff's Agreement, and there is support for a cap in the comparable agreements.

The Union did not make any arguments with respect to this issue.

Arbitrator Vernon addressed this issue in the initial arbitration. He noted that the Sheriff's Agreement has a cap, and he stated, "In addition, the external comparables favor the Employer's position."

This is a substantive issue which the arbitrator believes should be bargained rather than determined by an arbitrator. However, in this case because the initial language was imposed by arbitration and Arbitrator Vernon indicated he would have supported the County on this issue, and because the internal and external comparables support the County's position, the arbitrator favors the County's position on this issue.

Issue: Article 21 - Insurance

At Article 21.01 the County proposes to increase the percentage of family premiums it will pay. Because of the timing of those payments, the schedule proposed by the County is more favorable than the one proposed by the Union in that it is more advantageous to the employees. In addition, the County proposes to revise Article 21.02 (see final offer). The language proposed is identical to the language in the Orchard Manor Agreement. Aside from its preference for consistency, the County makes the following arguments in support of the proposed change:

The County seeks to remove that language because it places a very large and unwarranted restriction on the County's efforts to obtain for all of its employees the best possible health insurance at the lowest cost; and because it is probably impossible to carry out; and because the language has no support among any of the comparables . . .

. . . One of the problems . . . is that it is impossible to guarantee benefits and coverage "equal" to any named HMO because of the nature of HMOs. Health Maintenance Organizations are health care providers, not insurance companies. The HMO itself creates and provides its "plan of benefits and coverage." . . . the County may find itself being sued over a breach of section 21.02 with no recourse or remedy to avoid the dispute . . .

The Union's language also places on the County the burden of having to "shop" for HMOs based on a prior, unique health care providing system, possibly making the employer go looking for a new HMO with a laundry list of "necessities." . . . If an employer is . . . forced to ask HMOs to provide something or another in a way that does not fit the HMO's present mode of operations, the likely results are the HMO would tell the employer it cannot provide the service, or it will raise its rates. Neither result benefits the employees or the County.

. . . The Union imputed some bad motive to the County when the County desired to bargain the HMO option in the context of the Union's requested premium contribution increases. The Union apparently now believes it must have some type of HMO "guarantee" language to avoid what it seems to believe is the County's intention of making an HMO policy available which does not compare to the HMOs offered to other employees. There is no basis for that belief and no need for this language.

. . . the County is not seeking to delete the language requiring the County to offer the same HMO it offers other employees. No other comparable proposed by either party <u>requires</u> an employer to offer any HMO.

The Union views its offer as maintaining the status quo, while the County "proposes the complete elimination of benefit levels for HMO's and implies that HMO's need not necessarily be offered by the County under its final offer." The Union cites the fact that most of the comparables "spell

out a requirement that the Employer ensure there be the maintenance of existing health insurance benefit levels and coverage." In the Union's view the County has not presented any evidence of a problem which justifies elimination of "HMO benefit levels and possibly the HMO itself."

Arbitrator Vernon did not address the question now raised by the County when he decided the initial arbitration case. His focus in that matter was on the large gap that existed between the offers with respect to the amount of premium to be paid by the County.

It is the arbitrator's opinion that the crux of the dispute about the insurance issue is the proposed language change. There is a difference in the premium structure, but both offers call for a significant increase by the County in its contribution to insurance premiums. The difference between the offers on that point is a narrow one dealing with the date of implementation of the increases.

There are two aspects to the language dispute. One is whether an HMO option will be offered. The other, is what the nature of the option will be. The existing language unequivocably gives employees of the unit "the option of participating in an HMO . . ." The County's proposal changes that to state that employees of the unit will have the option of participating in ". . . any HMO offered to any county employees." That is not the same thing. Regardless of any intent the County may now have, the proposed language would allow the County to offer no HMO to any County employee, and it would only provide an HMO option to the unit if it provided an HMO to other employees of the County. This change is recognized by the County in the language it proposes to add, "If there is an HMO change or <u>discontinuance</u> (emphasis added), the County will allow an open enrollment to affected employees to the standard plan and any other HMO offered by the County." Aside from its argument that the comparable agreements don't require an HMO option, the County does not cite reasons for proposing to delete the required HMO option.

The second issue is the County's proposed deletion of the guarantee of the level of benefits and coverage guaranteed under the existing language. The County may be correct when it cites the difficulties and inefficiencies which might be caused if it were required to try to duplicate and/or assure the same or higher benefits and coverage when changing to a different HMO. However, the County proposes no substitute language which would provide it with flexibility in such an eventuality, such as making best efforts, or having discussion with the Union if it is impossible to duplicate benefits and coverage. It simply proposes deletion of the language.

The arbitrator has reviewed the comparable agreements and with the possible exception of Crawford County there are no agreements which guarantee employees an HMO option or guarantee that the level of benefits or coverage of an HMO will be continued. Most of the agreements are silent with respect to HMOs. Thus, the County's position is solidly supported by the comparables on the issue of guarantees of HMOs and the level of coverage. This, too, is a substantive area which the arbitrator believes should be bargained, not resolved by arbitration. However, because this benefit was obtained by arbitration, not bargaining, and because the comparables so heavily favor the County, the arbitrator prefers the County's position on this issue.

Issue: Article 22 - Training

The existing language states that if the County provides opportunities for job related training and employee development, it will reimburse expenses related to such activities consistent with the current practice. The County proposes that this language be deleted. In support of its position, the County argues:

> The effect of the present language is not to provide any additional benefits . . ., but in fact to restrict the County's decisions about how to provide training in a manner which could actually reduce the amount of training the County is able to offer . . . (It) . . . locks the County into reimbursement . . . which must be "consistent with the current practices." Neither the prior record, nor the present record contain any evidence or definition of "current practices". . .

The Union argues that the County has presented no evidence of any problems relating to training under the existing language. It argues also that nine of its ten comparable agreements provide reimbursement for training.

Arbitrator Vernon stated, with regard to this issue, "This is an issue which does not have any meaningful impact on the offers as a whole." The arbitrator agrees with that assessment. However, given the lack of any evidence of problems with this language, and the fact that the comparables support such reimbursement, the arbitrator is reluctant to rule that it should be deleted, and he thus supports the Union's position on this issue.

Issue: Article 23 - Travel and Expense Allowance

The existing language provides for allowances and expenses for employees "consistent with the current practices," and specifies that if reimbursement levels increase for other employees of the County, those increases will be given to the bargaining unit, also. It then specifies allowances for mileage, meals and "reasonable hotel or motel expenses," and lists other types of employment expenses.

The County proposes to delete sections (A-D), which specify the reimbursement amounts, and also to delete the language referring to "current practices" and the language stating that increased reimbursement levels paid to other employees will be paid to those in the unit. It proposes substitute language stating that allowances and expenses will be paid as provided in "the County policy as they existed on June 1, 1986, or as they may be increased by the County from time to time, provided they remain above the June 1, 1986 levels."

The County argues that its proposal ". . . does nothing more than return to the County Board the right to increase the levels of travel and expense reimbursement." There is no loss of benefits proposed.

The Union recognizes that the County's proposal protects current levels of reimbursement but it objects to the fact that the County's language would remove this area from bargaining and leave it to County Board determination. The Union argues that there has been no evidence presented by the County showing why this proposed change is necessary.

In the arbitrator's opinion, the existing language enables the County to increase the levels of travel and expense reimbursement, but it must bargain such increases with the Union, or give them to the unit if it raises the level for other County employees. The County proposal seeks to make this an area for unilateral County Board action. The Orchard Manor and Sheriff's Agreements do not contain expense provisions. The provisions in the external comparable agreements vary, and for the sake of brevity they are not analyzed here.

The County has presented no evidence to suggest that there is a problem with the present language. Clearly, it has the means by which it can accomplish increases in reimbursements levels under the present language. The arbitrator believes that changes in such language should be bargained, rather than established by arbitration and thus he favors the Union's offer which would maintain the present language. The arbitrator agrees with Arbitrator Vernon's assessment of this issue in which he determined that, "the

offers on this subject are in relative equilibrium--both have equally unreasonable aspects . . . the competing differences on this issue will not have a significant impact on the offers as a whole."

Issue: Article 25.02 - Reclassification

The existing language provides that a Social Worker I be reclassified to a Social Worker II "on completion of state requirements unless said requirements are waived, and at least one (1) year's service as a Social Worker I with Grant County." The County proposes to add to the above-quoted language, " . . . after the supervisor gives a satisfactory evaluation and certifies the employee is performing work as a Social Worker II."

In support of its proposed change the County argues that employees in professional positions develop at different rates, and that it is reasonable that the County be able to determine at the end of a year whether the employee is performing satisfactorily and doing work as a Social Worker II. It argues that "Automatic progression . . . without any review of the employee's performance, removes any incentive for a social worker at the I level to work to improve any weaknesses or further develop strengths as a social worker." It cites comparable agreements as further support for its position.

The Union argues that the County has presented no evidence to indicate a problem under the existing language and states that the County is asking " . . . to inject its own subjective considerations into an existing system of employee rights." It argues that the comparable agreements support continuation of the existing language.

The arbitrator has reviewed the comparable agreements. The great majority do not provide for automatic progression from one classification to another, and most of the agreements are silent with regard to this issue. They thus favor the County's position, although it is also true that the comparable agreements do not specify a year-end evaluation or a certification that the employee is doing the work of the higher level classification. On this aspect the Union's position is favored. Because both proposals have aspects which are supported by a majority of the comparables, the arbitrator does not have strong preferences on this issue. It is also an area which he believes should be resolved through bargaining, not arbitration.

Issue: Appendix A

The Union's final offer includes changes to Appendix A, Section B of the Agreement (see final offer). In its brief and reply brief the Union gave no explanation of these changes and made no arguments in favor of the changes. The County acknowledges that some aspects of the proposed change are simply updating, but it regards other aspects of the proposal as ambiguous. Since the arbitrator has not been given a basis by the Union on which to find its proposed change appropriate, the arbitrator favors the County's position on this issue and would not change the language of Appendix A, Section B.

Conclusion

The arbitrator is required to select one final offer in its entirety. As stated above, he favors the County's offer on wages (and he recognizes the County's significant increase in its share of health insurance premiums in both final offers). On the language items, there is no clear preference with respect to many of the relatively minor items. That is, there is almost an equal number of minor items in each final offer which have the arbitrator's support. The arbitrator has a clear preference for the Union's proposal on many of the more significant language items, e.g. discipline and probation, job posting, layoff and recall, hours, whereas in only one major area, insurance, does he support the County's offer.

Factor (h) in the statute requires the arbitrator to weigh such other factors as are normally taken into account in collective bargaining and arbitration. In the arbitrator's view the County is attempting to make significant language changes through this arbitration that it has not been able to achieve in bargaining or through the Vernon Award, and for which it does not have adequate justification, or adequate support in comparable agreements. While the County has asserted that it has, or will have, serious problems in administration of the existing language, it has not provided adequate documentation of that to the Union or to the arbitrator which would justify the arbitrator's ordering of those changes.

The arbitrator must weigh his support for the County's economic offer against his support for the Union's offer on significant language items. In his view there is greater justification for supporting the entire offer of the Union than for supporting the entire offer of the County. The more comparable wage increases and the increased administrative flexibility and consistency to be achieved by the County do not outweigh the loss to the employees in this bargaining unit of many important conditions of employment which they

have enjoyed since the implementation of the Vernon Award, and which other comparable unionized employees continue to enjoy, which would result from the County's final offer. Moreover, the implementation of the Union's final offer with its larger than average wage increases results in hourly wage rates which are below most of the comparable units in other counties and will not put the County at a competitive disadvantage.

Based upon the above facts and discussion the arbitrator makes the following

AWARD

The Union's final offer is selected.

Dated at Madison, Wisconsin, this 1st day of December, 1987.

Edward B. Krinsky
Mediator-Arbitrator

FINAL OFFER OF
**GRANT COUNTY PROFESSIONAL EMPLOYEES UNION**
**WCCME, AFSCME, AFL-CIO**
to
**GRANT COUNTY**
January 7, 1987

1. Modify Section 21.01, Insurance, so as to increase the county's share of the family premium to 75% of the total premium effective July 1, 1987, and to 80% of the total family premium effective March 1, 1988.

2. Modify Section 27.01, Duration, to provide for a contract term which would become effective from the period January 1, 1986, and continue through December 31, 1988.

3. Modify Appendix A as follows:

   A) Effective January 1, 1986, increase all hourly rates of pay of the then current wage schedule by four percent (4%); effective July 1, 1986, increase all wage rates by an additional one percent (1%).

   B) Effective January 1, 1987, increase all hourly rates of pay of then current wage schedule by three percent (3%).

   C) Effective January 1, 1988, increase all hourly rates of pay of the then current wage schedule by three percent (3%); effective July 1, 1988, increase all wage rates by an additional one percent (1%).

   D) Modify Appendix A, Section B to read as follows:
   Employees are placed on the wage schedule in their proper classification, consistent with their length of service, and Section 25.02, if applicable. Employees shall progress through the wage schedule consistent with the terms of this agreement. However, employees whose then current wage rate on January 1, 1986, was greater than the "After 24 Months" step for their classification as cited in Appendix A, Section A, shall receive an increase equal to the percentage increase provided all unit employees situated on the schedule, as outlined above in the final offer, as 4 (a), (b) and (c).

4. Except for the foregoing modifications, all of the provisions of the 1984-85 agreement shall be continued in full force and effect.

1/7/87

Y #3
Eske



January 30, 1987

Grant County Final Offer to AFSCME

Professional Unit

The county proposes the 1984-1985 award, except as modified here.

Deletions are lined out. Additions are underlined; such underlining is not part of the proposal, but is to highlight changes for the reader. Existing titles may also be underlined.

**AGREEMENT**

Between

**WISCONSIN COUNCIL OF COUNTY & MUNICIPAL EMPLOYEES**
**AFSCME, AFL-CIO**

And

**GRANT COUNTY**

(Professional Employees)

~~1984-1985~~
1986-1988

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## INTRODUCTION

This Agreement is made and entered into by and between Grant County, Wisconsin, hereinafter referred to as the "County" or "Employer," and the Wisconsin Council of County and Municipal Employees of the American Federation of State, County and Municipal Employees, AFL-CIO, hereinafter referred to as the "Union," pursuant to the sections of the Wisconsin Statutes as may be pertinent hereto.

Whereas, both of the parties to this Agreement are desirous of reaching an amicable understanding with respect to the employer-employee relationship which exists between them and to enter into an agreement covering rates of pay, hours of work and conditions of employment.

Now, therefore, in consideration of the mutual covenants and agreements hereinafter contained, the County and the Union acting through their duly authorized representatives, hereby agree as follows:

## ARTICLE 1 - RECOGNITION

1.01 The Employer recognizes the Union as the exclusive collective bargaining representative for all regular full-time and regular part-time professional employees of Grant County, excluding managerial, supervisory and confidential employees, and all other employees, for the purpose of conferences and negotiations with the above-mentioned municipal employer, or its lawfully authorized representatives, on questions of wages, hours and conditions of employment, pursuant to certification by the Wisconsin Employment Relations Commission, Case VII, No. 31434, ME-2205, Decision No. 21063, dated November 29, 1983. This provision only describes the bargaining representative and the bargaining unit covered by the terms of this collective bargaining agreement and is not to be interpreted for any other purpose.

~~1.02 Non-Discrimination: The parties hereto agree that there shall be no discrimination with respect to any employee because of age, sex, race religion, handicap, national origin, union affiliation, marital status or sexual orientation, contrary to applicable state and/or federal law.~~

1.032 Definition of Employees:

A) Regular Full-time Employee: A regular full-time employee shall be defined as an employee who is regularly scheduled to work forty (40) hours per week.

B) Regular Part-time Employee: A regular part-time employee shall be defined as an employee who is regularly scheduled to work less than forty (40) hours per week. Regular part-time employees who are regularly scheduled to work an annual average of twenty (20) hours or more per week shall be entitled to all fringe benefits as provided in this Agreement on a pro-

rata basis, except that insurance benefits shall not be pro-rated. ~~Regular p~~Part-time employees who are regularly scheduled to work an annual average of less than twenty (20) hours per week shall not be entitled to fringe benefits, except ~~that employees who work 600 hours or more per year shall be entitled to~~ Wisconsin Retirement Fund ~~benefits, subject to applicable sections of the Wisconsin Statutes and administrative rules made in accordance therefore~~ contributions if eligible.

## ARTICLE 2 - MANAGEMENT RIGHTS

2.01 It is agreed that the management of the County and the direction of employees are vested exclusively in the County, and that this includes, but is not limited to the following: to direct and supervise the work of employees; to hire, promote, demote, transfer or lay-off employees; to suspend, discharge or otherwise discipline employees ~~for just cause~~; to plan, direct and control operations; to determine the amount and quality of work needed, by whom it shall be performed and the location where such work shall be performed; to determine to what extent any process, service or activities of any nature whatsoever shall be added or modified; to change any existing service practices, methods and facilities; to schedule the hours of work and assignment of duties; and to make and enforce reasonable rules.

2.02 The County's exercise of the foregoing functions shall be limited only by the express provisions of this contract, and the County and the Union have all the rights which they had at law except those expressly bargained away in this Agreement.

## ARTICLE 3 - UNION ACTIVITY

3.01 Union Notices: The County shall provide ~~easily accessible~~ bulletin board space which employees can common ly view at each ~~principleal worksite~~ building of the County in which unit employees regularly work for the posting of Union notices and bulletins.

## ARTICLE 4 - FAIR SHARE - ~~DUES CHECKOFF~~

4.01 The Union, as the exclusive representative of all of the employees in the bargaining unit, shall represent all such employees, both Union and non-union, fairly and equally, and all employees in the bargaining unit shall be required to pay their proportionate share of the costs of such representation as set forth in this article.

4.02 No employee shall be required to join the Union, but membership in the Union shall be made available to all employees who apply consistent with the Constitution and By-Laws of the Union. No employee shall be denied Union membership on the basis of age, sex, race, religion, handicap, national origin, marital status, or sexual orientation.

4.03 The Employer shall deduct each month from the employee's pay an amount, certified by the Union, as the uniform dues required of all Union members or a fair share service fee as established and certified by the Union, consistent with Section 111.70 of the Wisconsin Statutes, and other applicable laws. With respect to newly hired employees, such deductions shall commence on the month following the completion of the probationary period.

~~4.04 The aggregate amount so deducted, along with an itemized list of the employees from whom such deductions were made, shall be forwarded to the Union within the month in which such deductions were made. Any changes in the amount to be deducted shall be certified to the Employer by the Union at least thirty (30) days prior to the effective date of such change. The Employer shall not be required to submit any amount to the Union under the provisions of this Agreement on behalf of employees otherwise covered who are on layoff, leave of absence, or other status in which they receive no pay for the pay period normally used by the Employer to made such deductions.~~

4.054 The provisions of 4.01, 4.02, and 4.03 ~~and 4.04~~ shall become effective the month following certification by the Wisconsin Employment Relations Commission (WERC) that a majority of employees eligible to vote have voted affirmatively in support of the fair share agreement.

4.065 ~~During periods when the fair share agreement is not certified pursuant to Section 4.05, or should the fair share agreement become null and void for any reason,~~ The Employer agrees to deduct Union dues each month from the pay of those employees who individually authorized in writing that such deductions be made. The amounts to be deducted shall be certified to the Employer by the Union and the aggregate deductions from all employees shall be forwarded to the Union along with an itemized statement of the employees from whom such deductions were made. Any changes in the amount to be deducted shall be certified to the Employer by the Union at least thirty (30) days prior to the effective date of such change.

4.076 The Union shall indemnify and save the Employer harmless against any and all claims, demands, suits and other forms of liability which may arise out of any action taken by the Employer under this article for the purpose of complying with the provisions of this article.

## ARTICLE 5 - GRIEVANCE PROCEDURE

5.01 Grievance. A grievance is defined to be a controversy between any employee, or the Union and the Employer, as to a matter involving the interpretation or application of this Agreement.

5.02 Procedure. Grievances shall be processed in the following manner: All times set forth in this article, unless otherwise specified, are working days and are exclusive of Saturdays, Sundays and any holiday recognized by this Agreement. All time requirements set forth in this article may be waived or extended by mutual written agreement of the parties.

A grievance affecting a group or class of employees may be submitted in writing by the Union to the department head directly and the processing of such grievance shall commence at Step Two, within ~~ten (10)~~ fifteen (15) days of the incident, or within ~~ten (10)~~ fifteen (15) days ~~of securing knowledge thereof~~ after the Union or any affected employee should have reasonably known of the occurrence of the event causing the grievance.

Step One: In the event of a grievance, the employee shall perform his/ or her assigned work task and grieve his/ or her complaint later. An employee, and/or the Union believing ~~he/she has~~ there is cause for a grievance, shall ~~orally~~ present ~~his/her~~ the grievance to ~~his/her immediate~~ the affected employee's immediate supervisor in writing within ~~ten (10)~~ fifteen (15) days of the incident, or within ~~ten (10)~~ fifteen (15) days ~~of his/her securing knowledge thereof~~ after the Union or the affected employee should have reasonably known of the occurrence of the event causing the grievance. A Union representative may accompany the grievant. The supervisor shall attempt to make a mutually satisfactory adjustment and shall give a written answer to the grievant and/or Union representative within five (5) days after the grievance was presented to him/ or her.

Step Two. If the grievance is not resolved at the first step, the employee and/or the Union may appeal the grievance in writing to the department head within ten (10) days from the date the Step One response was received or was due. The department head and/or his/ or her representative will meet with the employee and his/ or her representatives and attempt to resolve the grievance. Such meeting will be held within five (5) days after receipt of the grievance. The department head or his/ or her representative shall submit a written answer to the employee and his/ or her representative within ten (10) days following the meeting.

Step Three. If the grievance is not resolved at the second step, the employee and/or the Union may appeal the written grievance to the County Employee Relations Committee within ten (10) days from the date the written decision of the department head was received or was due. The parties shall meet within ~~fifteen (15)~~ twenty (20) days at a mutually agreeable time and place to discuss the grievance. Following said meeting, the County Employee Relations Committee shall respond in writing within ten (10) days to the employee and Union representative.

Step Four. Arbitration.

A) General: If the grievance is not settled at the third step, the Union may proceed to arbitration by informing the chairperson of the County Employee Relations Committee in writing within fifteen (15) days from the date the written response of the County Employee Relations Committee was received or was due, that they intend to do so.

B) Selection of an Arbitrator. The Union shall thereafter request the Wisconsin Employment Relations Commission to appoint an arbitrator from its staff. The decision of the arbitrator shall be final and binding on the parties. The arbitrator shall not modify, add to, or delete from the express terms of this Agreement.

C) Costs. The cost of the arbitrator shall be shared equally by the parties. The cost of a court reporter and/or transcript shall be shared equally by the parties provided both parties request same. If one party does not wish a court reporter and transcript, they shall not share in the cost.

## ARTICLE 6 - DISCIPLINE

6.01 The Employer shall not suspend, discharge or otherwise discipline any nonprobationary employee without just cause. When such action is taken against an employee, the employee will receive written notice of such action at the time it is taken, and a copy will be mailed to the Union within two (2) calendar days, except that written notice of oral discipline shall be given to the employee and the Union as soon as possible after the action is taken. Such notice shall include the primary reasons on which the Employer's action is based.

## ARTICLE 7 - SENIORITY

7.01 Definition. Seniority shall be defined as an employee's length of service in the bargaining unit dating from the employee's most recent date of hire. For purposes of fringe benefit calculations only, an employee's seniority shall be calculated from the employee's most recent date of hire with Grant County. Seniority shall not be pro-rated for part-time employees. Seniority shall be deemed to have been terminated when an employee:

A) Quits or retires; or
B) Is discharged ~~for cause~~ under this contract; ~~terminated during the probationary period;~~ or
C) Is laid off for a period of more than twelve (12) consecutive months; or
D) Fails to timely accept recall; or
E) Fails to return on time from a leave of absence.

7.02 The Employer shall furnish the Union a seniority list upon request, twice a year, showing each unit employee's name, classification, date of hire, and months of service.

## ARTICLE 8 - PROBATIONARY PERIOD

8.01 All newly hired employees shall serve a probationary period of six (6) calendar months, or nine (9) calendar months in the case of an employee regularly working less than an average of 20 hours per week during the first six (6) calendar months of employment ~~probationary period~~. During said period, employees shall be subject to dismissal without cause or recourse under this contract. ~~to the grievance procedure. However, such employee shall be entitled to a written reason for the termination.~~ If still employed after such probationary period, their seniority shall date from the first day of hire.

## ARTICLE 9 - JOB POSTING

9.01 Job vacancies in the bargaining unit due to retirement, quits, new positions, transfers or whatever reason, that the Employer intends to fill, shall be posted in each department for a period of seven (7) working days. The posting shall provide information concerning the qualifications needed for the position, a brief description of the job duties, the salary range, starting date, and the closing date for applications. A copy of each posting shall be provided to the president of the Union. Such notice shall provide a space for those employees who are interested in the vacant position to affix their names.

9.02 Applicants. Employees interested in the posting shall make written application.

9.03 Selection. ~~The most qualified applicant shall be selected provided that if two (2) or more applicants are relatively equal in qualifications, seniority shall be the determining factor.~~ All applicants will be considered for the position. The employer will give recognition to unit experience and seniority; appointment to professional positions entails subjective and judgmental decisions, so that the final selection shall be in the employer's sole judgment.

~~9.04 Trial Period. If within the first sixty (60) calendar days of filling a job vacancy a selected employee fails to make satisfactory progress for the position, he/she shall be returned ot his/her former position and selection shall be made among the remaining qualified applicants for the position, if any, according to the criteria set forth in Section 9.03 above. An employee may also voluntarily return to his/her former position during the trial period at his/her discretion.~~

~~Employees serving a trial period shall receive a written evaluation of their progress after thirty (30) calendar days.~~

## ARTICLE 10 - LAYOFF AND RECALL

10.01 The bargaining unit shall be divided into three groups for purposes of layoff and recall:

A) Social Workers;
B) Nurses;
C) Attorneys

10.02 The Employer shall have the right to reduce the number of jobs in any classification. Employees whose jobs have been eliminated shall have the right to bump any junior employee in an equal or lower classification within their group as defined in Section 10.01, provided they are qualified to perform the junior employee's job~~.~~, including special skills. Such junior employees who have lost their positions as a result of a bump shall have the right to exercise their seniority in the same manner as if their job had been eliminated. Employees who have lost their position as a result of a bump or a reduction in the number of positions shall have the option to accept the layoff and may decline to exercise their bumping rights, if any. Laid off employees shall have recall rights as provided in Section 10.03 below.

10.03 Recall Rights: In recalling, the employee(s) with the greatest seniority shall be recalled first, provided they are qualified to perform the available work~~.~~, including special skills. Notice of recall shall be sent by the Employer to the laid off employee's last known address, certified mail, return receipt, and the laid off employee shall be required to respond affirmatively within ~~two (2) weeks (14 days)~~ seven (7) days from the first attempted delivery date of the recall notice. A laid off employee shall have recall rights for a period of twelve (12) months from the date of the most recent layoff. Recall shall be limited to within the groups described in Section 10.01.

## ARTICLE 11 - HOURS OF WORK

11.01 Work Day. The normal work day shall consist of eight (8) consecutive hours, excluding a one-half ($\frac{1}{2}$) hour lunch period ~~between the hours of 8:00 a.m. and 4:30 p.m.~~ ; the employee may be assigned schedules required to perform the professional duties of their employment; the employer shall recognize and accommodate the employee's need for regularity in hours to the extent reasonably possible.

11.02 Work Week. The normal work week for full-time employees shall consist of forty (40) hours, Monday through Friday.

11.03 Breaks. Employees shall be entitled to thirty minutes of paid rest time during each work day (15 minutes per four (4) hour work period), which shall normally be used in fifteen minute increments unless otherwise arranged with an employee's supervisor.

Former sections 11.04 and 11.05 deleted.

11.064 Overtime. Employees shall be compensated by compensatory time off for all time assigned and worked in excess of eight (8) hours per day or forty (40) hours per week. Said compensation shall be at the rate of one hour compensatory time off for each hour worked.

11.075 Call-out. An employee called out to work at a time other than his/her regular schedule of hours, except where such hours are consecutively prior to or subsequent to the employee's regular schedule of hours, shall receive a minimum of two (2) hours compensation pursuant to the terms of this agreement.

11.086 On Call Beeper Duties. Employees assigned to on call beeper duties shall receive $130 per week in addition to their regular pay and shall be entitled to compensation pursuant to Section 11.06 for associated call-outs. Section 11.07 shall not be applicable for associated call-outs. Additionally, full-time employees assigned such duties on a holiday shall earn eight (8) hours of compensatory time; part-time employees earn compensatory time on a pro-rated basis according to the percentage of full-time they regularly work.

11.097 Telephone Calls. Telephone calls engaged in by employees outside their working hours shall be considered time worked and shall be compensated by compensatory time off as currently practiced.

11.~~10~~8 Use of Compensatory Time. Compensatory time may be ~~taken at the employee's discretion, subject to approval~~ scheduled by the supervisor.

11.~~11~~9 Time Paid. All paid time shall be considered time worked for the purpose of computing overtime.

11.~~12~~10 This article shall not be construed to prevent the Employer from assigning hours in addition to the normal work day and work week.

## ARTICLE 12 - VACATION

12.01 Vacation. Each regular full-time employee and regular part-time employee shall accrue paid vacation as follows:

A) Employees shall earn vacation time in the current year for the use in the following year, based on his/her anniversary date of employment. (Employees who currently receive vacation on a calendar year basis shall be grandfathered.)

B) For each regular 80 hours paid, vacation is earned as follows:

Year 0 to 5 earns 3.076 hours vacation;
Year 5 to 8 earns 3.538 hours vacation;
Year 8 to 10 earns 4.000 hours vacation;
Year 10 to 15 earns 4.615 hours vacation;
Year 15 to 20 earns 5.230 hours vacation;
Year 20 and beyond earns 6.150 hours vacation.

12.02 Accrual. Vacation time must be taken in the anniversary year following that in which it was earned, except in an emergency where it is mutually agreed by the Employer and employee that special circumstances warrant an exception.

12.03 Holidays During Vacation. Holidays falling in a vacation period will not be considered as counting against vacation time.

12.04 Scheduling. Specific periods shall be requested by an employee and approved by his/her immediate supervisor. However, said approval shall not be unreasonably withheld. Any one vacation period may not exceed the annual earned vacation time.

12.05 Termination. In case of termination, retirement or death of an employee, the employee or the employee's estate or designated beneficiary shall receive pay for all vacation time accrued and all vacation earned in the current year.

## ARTICLE 13 - SICK LEAVE

13.01 Intent. Sick leave is intended to protect the employee from financial hardship due to illness or injury. There is no limit set for a maximum number of sick leave days one may accumulate. Sick leave may also be used for illness or injury of the employee's spouse or child.

13.02 Accrual.

A) Sick leave shall accrue at the rate of one (1) day per month for full-time employees.

B) Regular part-time staff shall accrue sick leave at a rate proportionate to the percent of full-time worked worked; for example, half-time staff would accrue one-half (½) day monthly.

13.03 Pay Back.

A) Employees will be paid for all scheduled days off for illness or injury provided they have successfully completed their initial probationary period, but not to exceed the amount accrued. When and if an employee maintains at least

24 days for a 12 month period, beginning January 1, the employee at the end of the 12 month period may be paid for half of the sick leave not used but accrued during that 12 month period. The maximum number of days paid at the end of a 12 month period will not exceed six (6) days. The remaining days shall be retained in the employee's sick leave account.

B) One-half ($\frac{1}{2}$) of the accumulated sick leave shall be paid to the employee upon retirement at age 62 or older.

13.04 Sick leave is accrued but may not be used during the initial probationary period except if the employee passes said probation, it shall then be applied retroactively.

13.05 Holidays. Holidays falling in paid sick leave period will not be considered as counting against sick leave time.

13.06 Sick Leave Excuse. ~~Any person who is sick for three (3) consecutive working days may be asked to provide a doctor's excuse.~~ The department head may require a medical report for absences of sick leave at his or her discretion where there is a basis for suspicion of abuse, however, a medical report is required for absences in excess of five (5) consecutive working days.

## ARTICLE 14 - HOLIDAYS

14.01 Holidays. All employees shall be entitled to the following holidays with pay: New Year's Day, Good Friday afternoon, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day, the day preceding Christmas Day and Christmas Day. September primary election and November general election days shall be holidays when such elections are held.

14.02 Part-time Employees. Regular part-time employees are eligible for holiday pay on a prorated basis according to the percentage of full-time they regularly work.

14.03 Holidays Falling During Vacation or Sick Leave. If any of the above-listed holidays falls during time taken as paid vacation or paid sick leave, such holiday shall not be charged against accumulated vacation or sick leave.

14.04 Holidays Falling on Weekends. Should any of the above-listed holidays fall on a Saturday, the previous Friday shall be observed as the holiday; and should any holiday fall on a Sunday, the following Monday shall be observed as the holiday. When Christmas Day falls on a Saturday, the preceding Thursday shall be observed as the Christmas Eve holiday. When Christmas Day falls on a Sunday or Monday, the preceding Friday shall be observed as the Christmas Eve holiday.

14.05 Requirements. Employees must work ~~their scheduled~~ as assigned, if assigned the work day before and after the

holiday, ~~or~~ and the day scheduled as the holiday, unless ~~on an authorized paid leave~~ excused by the employer, to receive holiday pay.

## ARTICLE 15 - DISCRETIONARY DAYS

15.01 Policy. All regular full-time employees shall be entitled to two (2) discretionary days with pay each calendar year. Regular part-time employees working at least half-time shall be entitled to one (1) discretionary day with pay each calendar year.

15.02 Use. Discretionary days may not accumulate year to year. Employees ~~shall notify~~ must have the approval of their supervisor ~~of their intent~~ at least three (3) days in advance to use ~~such~~ discretionary time, unless otherwise agreed. ~~subject to their supervisor's approval.~~

15.03 Discretionary days accrue from January 1 to January 1. Employees hired prior to June 30 are allowed two (2) days or, if at least half-time, one (1) day. Employees hired after June 30 receive one (1) day if they are full-time and no days if they are at least half-time, but not full-time.

15.04 Time Off Without Pay. A request for a day off without pay may be submitted to the appropriate supervisor. The Employer may approve if the efficiency of the unit will not be substantially impaired, the employee's work is up-to-date and clients/services will not be adversely affected. A request for more than five (5) consecutive workdays requires the approval of the department head as well as the supervisor.

## ARTICLE 16 - FUNERAL LEAVE

16.01 Leave Defined. Each employee shall be entitled to a maximum of three (3) days of paid bereavement leave ~~for the death~~ for the funeral and other matters relating to the death of a spouse, child, parent, brother or sister. A one (1) day leave shall be granted ~~for the death~~ to attend the funeral of ~~an~~ a brother-in-law, sister-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, grandchild, nieces or nephews.

16.02 Additional Time. An employee may use earned sick leave days, earned vacation days, discretionary days or compensatory time for up to two (2) weeks during the period of grief, subject to approval by the supervisor.

## ARTICLE 17 - MILITARY LEAVE

17.01 All regular employees shall be allowed to take time off from work to fulfill active duty military requirements annually if such orders are given by the military unit. The employee shall be given the choice of accepting either the regular salary paid by the County or the military duty pay,

whichever is to the employee's advantage. If the option is to accept the County's pay, then the military pay shall be refunded to the County. If the option selected is to accept military pay, then the County's pay shall return to the County. The maximum pay in any year is two (2) weeks' pay.

## ARTICLE 18 - JURY DUTY

18.01 An employee selected to serve on a trial jury will be excused from employment for the time necessary to fulfill the obligation. The employee shall be given the choice of accepting either his/her regular salary paid by the County or the jury duty pay. If the option is to keep the jury pay, then the County's pay shall return to the Employer and the employee is not expected to return to complete the work day. With the approval of the supervisor, it is permissible to use discretionary days, vacation days or accumulated compensatory time for jury duty.

## ARTICLE 19 - LEAVES OF ABSENCE

19.01 Health and Disability Leave: Employees shall be entitled to a leave of absence without pay for a period not to exceed three (3) months after exhausting all accumulated sick leave, and upon a showing of inability to perform his or her duties because of health reasons (including maternity needs) where prescribed by a physician. An additional one (1) month extension may be granted if needed.

19.02 Personal Convenience of Employee. Upon request of an employee for a leave of absence without pay for his/her personal convenience, the department head may grant the request for such period as the circumstances warrant, and the efficiency of the employee's unit will permit without substantial impairment thereof.

19.03 Conditions of Leave. Fringe benefits will continue to accrue for employees during the first three (3) weeks of a leave of absence without pay. If the leave is for health disability or maternity purposes, the County shall continue to make its normal contribution toward insurance for a period not to exceed three (3) months. In the event of personal convenience leave, or if the three (3) month period has expired for other leaves cited herein, the employee may continue to participate in the insurance by making such required premium payment to the County, if any carrier which may be insuring the coverage permits.

## ARTICLE 20 - WISCONSIN RETIREMENT PAY

20.01 The County shall participate in the Wisconsin Retirement Fund. The County shall pay on behalf of each eligible employee, all of the employee's required contribution up to 6%, in addition to any contribution required of the County.

## ARTICLE 21 - INSURANCE

21.01 The County agrees to provide health insurance coverage to all eligible employees covered by this agreement at least equal to the plan in effect on January 1, 1984. The County may change insurance carriers and/or plans if it elects to do so, provided that the coverage and benefits remain the same or are better than the existing coverage and benefits. If the County is contemplating changing carriers and/or plans, it will notify the Union of that fact, provide the Union with a copy of the proposed new plan and will discuss the terms, conditions and coverage of the proposed new plan with the Union prior to any change.

The County shall pay the full cost of said insurance for the single plan or the following amounts toward the total cost of the family plan:

A) ~~55~~70% effective 1/1/8~~4~~6
B) 6~~0~~75% effective 7/1/8~~4~~7
C) 65~~8~~0% effective ~~1/1/85~~ 3/1/88
~~D) 70% effective 7/1/85.~~

21.02 Effective January 1, 1985, the County shall offer to all eligible employees the option of participating in any HMO offered to any county employee as an alternative to the standard insurance plan as cited in Section 21.01. ~~As options, the County shall offer a plan with benefits and coverage equal to or better than the HMO of Wisconsin plan offered to other County employees effective January 1, 1985, and a plan with benefits and coverage equal to or better than the HMO Medical Associates (Dubuque) plan offered to other County employees effective January 1, 1985. Changes in carriers and/or plans shall be made consistent with the requirements set forth in Section 21.01 above.~~ Participation in one of these HMO's shall be made available to employees as soon as possible as allowed by the carrier. If there is an HMO change or discontinuance, the County will allow an open enrollment to affected employees to the standard plan and any other HMO offered by the County. The County shall contribute an amount equal to the County's share towards the standard health insurance plan premium cited in Section 21.01 for either the single or family plans, provided that the County's contribution shall not exceed the applicable HMO premium.

21.03 The County agrees to provide each eligible employee insurance for life, accidental death and dismemberment and disability at least equal to the plan(s) in effect on January 1, 1984. Changes in carriers and/or plans shall be made consistent with Section 21.01. The County shall pay the full cost of the premiums for said insurance.

21.04 The County shall continue to pay for the cost of liability insurance for the professional employees in the Nurses Department as currently practiced.

## ARTICLE 22 - TRAINING AND EMPLOYEE DEVELOPMENT

22.01 If the County continues to provide opportunities for job related training and employee development, reimbursement for expenses related to such activities shall be made consistent with the current practices.

## ARTICLE 232 - TRAVEL AND EXPENSE ALLOWANCE

232.01 Employees who in the course of their duties are authorized to attend conferences, seminars or conduct business for the Employer, shall receive allowances and expenses as provided in this Article consistent with the current practices the County policy as they existed on June 1, 1986, or as they may be increased by the County from time to time, provided they remain above the June 1, 1986 levels. Should the County increase the level of reimbursement, above those established herein, for other County employees, said increase shall also apply to this bargaining unit.

A) Mileage. Twenty-two cents (22¢) per mile;

B) Meals:

1. Supper - up to $10.00 per receipt;
2. Lunch - up to $4.50 per receipt;
3. Breakfast - up to $3.50 per receipt;
4. Banquets - per receipt.

Note: Social Workers shall also be reimbursed for the cost of meals taken in Grant County while on County business pursuant to the policy in effect prior to May, 1983.

C) Reasonable hotel or motel expenses per receipt;

D) Other employment expenses, related to authorized conferences, seminars and business for the Employer, such as registration or parking fees shall be reimbursed to the employee pursuant to the current practices. Where possible, all such fees shall be paid in advance by the County.

## ARTICLE 243 - MISCELLANEOUS

243.01 Physicals. The County shall pay up to $25 toward the cost of physicals required by the County or statute. The examination may be taken at the facility of the employee's choice.

## ARTICLE 254 - CLASSIFICATION AND COMPENSATION SCHEDULE

254.01 The classification and compensation schedule shall be made a part of this Agreement and attached hereto as Appendix "A".

254.02 Reclassifications.

1. An employee classified as a Social Worker I shall be reclassified to a Social Worker II on completion of state requirements unless said requirements are waived, and at least one (1) year's service as a Social Worker I with Grant County, after the supervisor gives a satisfactory evaluation and certifies the employee is performing work as a Social Worker II.

2. Employees so reclassified and employees who are promoted to a higher classification pursuant to the terms of this Agreement, shall be placed on that step in the wage schedule set forth in Appendix A that results in a pay increase and shall progress through the schedule consistent with the time between the incremental steps.

3. Employees demoted to a lower classification, pursuant to the terms of this agreement shall be placed at the step in the wage schedule set forth in Appendix "A", commernsurate with their seniority and shall progress through the schedule consistent with the time between the incrememntal steps.

4. Employees transferred to another position in the same classification, pursuant to the terms of this Agreement, shall continue to progress through the schedule for their classification.

254.03 Longevity Pay. All employees shall receive longevity pay subject to the following terms:

A) After three (3) years of service - 3¢/hour;
B) After five (5) years of service - 6¢/hour;
C) After ten (10) years of service - 9¢/hour;
D) After fifteen (15) years of service - 12¢/hour;
E) After twenty (20) years of service - 15¢/hour.

The longevity pay cited herein shall be added to the base rates of each eligible employee. The hourly rates set forth in this section are total amounts and are not cumulative.

Longevity pay shall be effective on the first day of the calendar year following completion of the required length of service.

## ARTICLE 265 - SAVINGS

265.01 If any article or section of this Agreement, or any addenda thereto, is held to be invalid by operation of law or by a tribunal of competent jurisdiction, or if compliance with or enforcement of any article or section should be restrained by such tribunal, the remainder of this Agreement and addenda shall not be affected thereby and the parties shall enter into

immediate collective bargaining negotiations for the purpose of arriving at a mutually satisfactory replacement for such article or section.

## ARTICLE 27~~6~~ - DURATION

27~~6~~.01 This Agreement shall be in full force and effect from January 1, ~~1984~~ 1986 to and including December 31, ~~1985~~ 1988. This Agreement shall be automatically renewed from year to year thereafter, unless the party desiring to modify, alter or otherwise amend the Agreement or any of its provisions, gives to the other party, written notice on or before September 1, ~~1985~~ 1987, or any anniversary thereof.

In witness whereof, the parties have hereunto set their hands and seals by their duly authorized representatives and committees this _____ day of _____, 19 ____.

| GRANT COUNTY | WISCONSIN COUNCIL OF COUNTY & MUNICIPAL EMPLOYEES, AFSCME, AFL-CIO: |
|---|---|
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |
| _____ | _____ |

## Appendix A
Hourly Rates of Pay Effective July 1, 1985

| A. Position | Start | After 6 Mos. | After 12 Mos. | After 24 Mos. |
|---|---|---|---|---|
| Social Worker I | $6.55 | $6.87 | $7.22 | $7.59 |
| Social Worker II | 7.59 | 7.87 | 8.15 | 8.43 |
| Social Worker III | 9.64 | 9.90 | 10.16 | 10.43 |
| Asst. Dist. Atty. | 8.87 | 9.15 | 9.42 | 9.70 |
| Home Health Nurse | 7.68 | 7.94 | 8.20 | 8.46 |
| Public Health Nurse I | 7.68 | 7.94 | 8.20 | 8.46 |
| Public Health Nurse II | 8.10 | 8.36 | 8.62 | 8.88 |

Raise July 1, 1985 rates 3% on 1-1-86, and 1% on 7-1-86

Raise 7-1-86 rates 2% on 1-1-87

Raise 1-1-87 rates 2½% on 1-1-88

Persons over schedule receive same percentage increases